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The Council House,
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Current Topics.

A New Scots Judge.

AFTER an unusually long interval, the vacancy created in the ranks of the Court of Session judges by the resignation of Lord ORMIDALE has at last been filled by the appointment of Mr. J. L. WARK, K.C. The mere mention of the fact that the new judge is a King's Counsel shows at once that he is a member of the Bar, but it is interesting to recall that in Scotland, although members of the Bar have in practice a monopolistic claim to judgeships in the Court of Session, that section of the solicitor branch of the profession known as Writers to the Signet are technically qualified for the appointment. By an Act of 1707, c. 7, art. 19, it is provided that no person can be named Lord of Session who has not served as an advocate or Principal Clerk of Session for five years, or as Writer to the Signet for ten years, but in the case of a Writer to the Signet being appointed he must have undergone certain trials in Roman law. A curious feature in connection with appointments to the Court of Session is that each new judge has to undergo his "trials," that is, he has to sit first with one of the Lords in the Outer House, and then with one of the appellate divisions, and express his opinion as to the decision that should be given. While sitting for this purpose he is styled the Lord Probationer. The trials are, of course, nowadays a mere form, and nothing happens even if his colleagues should disagree with the decision he proposes. At one time, however, the court claimed the right to exclude an appointee whom they considered to have failed to satisfy them as to his legal erudition or his personal integrity. In 1772, one PATRICK HALDANE received from the Crown a nomination as a judge of the Court of Session ; but so strong was the popular feeling against him as an ex-commissioner for disposing of the forfeited estates and on other grounds, that the Faculty of Advocates resolved to oppose his appointment. They did this first on the technical ground that he was not qualified because he had not served for five years as an advocate. It was true that he had been a member of the Faculty for that period, but he had been in attendance for only thirty months, the fictitiousness of his professional position being brought to a climax by the statement "that Mr. HALDANE had not so much as a pin put up by the Faculty's gown-keepers, so small was his attendance." The court held that he had not established that he was qualified to be received, but on appeal to the House of Lords this decision was reversed. Infuriated by this reversal the Court of Session sought to exclude HALDANE for other reasons, claiming the right to judge of the fitness of a presentee on any grounds. An enquiry was begun, but before it had proceeded very far the nomination of HALDANE was withdrawn. Determined, however, that it should not suffer a similar rebuff from the court a second time, the Crown carried an Act depriving the court of the power of rejecting the Crown's nominee, leaving the court nothing but the power of remonstrating against what they might deem an improper choice. The "trials" thus remain, but the veto has gone.

Masculine Moral Reputations.

THE case of *Slacke* v. *Zenter* (*The Times*, 14th January) is of no particular legal importance, but may remind the profession of a fact not apparent on the face of it, namely, that only a beneficed clergyman could have been a successful masculine plaintiff in an action of the kind, which was for slander of moral reputation. Mr. SLACKE, Vicar of Cheriton, in Kent, sued the defendant on a slander containing a false imputation on him of a moral offence with the defendant's wife, and recovered £200. In so doing he was more fortunate than the appellant in *Jones* v. *Jones* [1916] 2 A.C. 481, a young schoolmaster who sought to recover damages on a similar slander, but was told that, without proof of special damage to him in his profession, he had no right to do so. The general law on the subject is set forth fully in the speeches in that case, in which it was pointed out that, had it been as the appellant claimed, there would have been no need for the passing of the Slander of Women Act, 1891. This was passed immediately after, and presumably as a result of *Speight* v. *Gosnay* [1891] 60 L.J. K.B. 231, in which a young woman who had lost her fiancé as a result of a slander of this kind unsuccessfully sued on it. KAY, L.J., in the Court of Appeal, expressed his regret that he was obliged to concur with his colleagues in dismissing the action, and gave his opinion that words imputing want of chastity in an unmarried girl should be actionable without proof of special damage. Parliament agreed with him, and went further in extending the protection of the law to the reputations of wives and widows. In those days, however, bachelors, husbands and widowers were deemed negligible quantities so far as the law's favour was concerned, and no one troubled about them, with the result that, fifteen years afterwards, Mr. JONES lost his action, though it was admitted that if his employers had believed the slander on him, he would have been dismissed from his post. Theoretically the morals of schoolmasters and doctors in their leisure hours are their own concern, whereas the clergyman is subject to the Clergy Discipline Act, 1892, for twenty-four hours every day. As a practical matter, however, the professional career of schoolmasters and many clerks and other employés of strait-laced employers may greatly depend on their moral reputations, and the result of *Jones* v. *Jones* may be deemed to indicate

an injustice to the male sex. To quote our previous observation (70 Sol. J. 494), it seems rather hard that the "white flower of a blameless life," as worn on the masculine breast, should be deemed to have no commercial or professional value, save for the purposes of the Clergy Discipline Act.

Rescuers and Contributory Negligence.

One of the trials without evidence in the "Consider Your Verdict" series recently broadcasted by the British Broadcasting Corporation, was the case of *Honeyman* v. *Williams*, which we discussed in 76 Sol. J. 766. In that case a passing pedestrian successfully rescued a child from under the wheels of a motor car which was being carelessly driven. The pedestrian was himself injured and brought an action against the motorist for damages for personal injuries. The motorist pleaded the contributory negligence of the pedestrian, and the judge, in his summing up, directed the jury that the higher they rated the courage of the plaintiff, the further removed they would hold his conduct from that of the ordinary man, and it was only the conduct of the ordinary man which the defendant could be expected in the normal course of things to contemplate. In *Honeyman* v. *Williams* the judge undoubtedly took an adverse view to the plaintiff. Since then, however, there has been an actual decision on almost precisely similar facts in *Gregory* v. *Miller*, which was heard at the Leicester Assizes on 7th February. The plaintiff had rescued a child by throwing her out of the path of an on-coming motor lorry, but was himself injured by being pinned against a wall. The defence pleaded was contributory negligence, and the plaintiff said in evidence that there was no time for him to appreciate the risk with the child screaming in front of him. The jury returned a verdict for the plaintiff for £150 damages, and judgment was entered accordingly. The implication in the summing up of the "judge" in *Honeyman* v. *Williams* that a rescuer is guilty of contributory negligence is thus falsified by an actual decision, as it was previously falsified by the words of Mr. Justice Swift in *Brandon* v. *Osborne Garrett & Co., Ltd.* [1924] 1 K.B. 548, 552: "If a person is not to be held guilty of contributory negligence because he, acting instinctively for his own preservation, does that which a reasonable man under those conditions would do, I cannot see why he should be any more held to be guilty of contributory negligence if he does his instinctive act for the benefit of his wife or child, or even a friend or stranger."

Hotel Evidence in Divorce Cases.

On p. 52 *ante*, we printed the observations of Bateson, J., as to the possibility of "exemplary punishment" being meted out to a hotel proprietor who declined to allow enquiries as to his guests by persons collecting evidence for a divorce petition until he was paid a five-guinea fee. Our readers will perhaps remember that we commented on such a situation two years ago when a similar *impasse* occurred in a case before Hill, J., see 74 Sol. J. 64. We then pointed out the difficulties of dealing with such a matter in a punitive spirit, for *primâ facie* hotel proprietors and managers are entitled to assume that their guests are respectable people, and to protect them from any sort of espionage, the motive for which may be the desire for justice, but is quite as likely to be blackmail. The question how far the courts or civil process generally should assist even policemen collecting evidence before a charge is made, is of course highly controversial, and the facilities denied to policemen could hardly be conceded to private spies or enquiry agents. If the suggestion were made that solicitors should have the right of requiring persons to answer questions for the purposes of justice, the answer no doubt would be that to make fishing enquiries on the chance of litigation is no part of their professional duty. Secret service is, of course, required in certain other civil cases, such as actions for passing-off. If a retailer knows that he is doing wrong in passing off some imitation of a proprietary article as the genuine thing, he is not likely to sell it to a stranger, and resort must be made to subterfuge. The police have similar difficulties in respect of infractions of the licensing laws by night clubs, and street betting, and occasionally have to employ someone whose functions perilously approach those of the "*agent provocateur*." If for five guineas a hotel proprietor will unreservedly give the information required, the process is probably in the long run cheaper, and certainly more expeditious, than to subpœna him with his books, and, after dragging information out of him as to chamber-maids and waiters on duty, going through a further course of distributing subpœnas amongst the staff, with the result of a collection of more or less hostile witnesses.

Statutory Provisions and the Coal Trade 1932.

The Coal Mines Act, 1932, by s. 1, sub-s. (2), provides that s. 1 of the Coal Mines Act of the previous year shall continue in force until the coming into operation of an Act to enable effect to be given to the draft international convention limiting the hours of work underground in coal mines adopted by the general conference of the International Labour Organisation of the League of Nations on the 18th June, 1931. The short effect of the Act—as a writer in *The Times* (*Annual Financial and Commercial Review*) of 3rd February points out—is to fix the hours of work at seven and a half per shift, plus one hour winding time. We learn from the same source that no difficulty is anticipated on the expiration next June of the contemporaneous "gentleman's agreement" to maintain existing minimum wage rates and subsistence allowances and that an understanding has been reached securing the peace of the industry in South Wales at least until 1934. We desire also to express our indebtedness to *The Times* for the information which follows. The Coal Mines Reorganisation Commission set up by the Coal Mines Act, 1930, in its efforts to form larger units for the production and sale of coal has failed to secure acceptance of various amalgamation schemes put forward and has decided to exercise its statutory powers in effecting compulsory mergers in Fife and Cannock Chase. The regularisation of output by the quota scheme seems to have caused a large measure of dissatisfaction, but the figures contained in the report (Cmd. 4224) on the working of schemes under Pt. I of the Act of 1930 by the Mines Department of the Board of Trade do not suggest that production has been restricted to the prejudice of export trade. Indeed in the March quarter production was 15.07 per cent. short of the quantity allocated by the Central Council, and the figures for the whole of 1932 show a difference of about 22,000,000 tons, or 10.3 per cent. While the logical chain in the foregoing argument is not faultless, the figures undeniably run counter to an impression which has gained a large degree of acceptance in some quarters. But the allocation of quotas has been the cause of constant friction and both central and district schemes, established in 1931, have failed to achieve their main object of raising the price level to a profitable figure, although a considerable measure of stabilisation has been effected.

The Position of Gas Companies.

Further light is thrown upon the statutory control of the output of coal by the quota system by the remarks made by Dr. Charles Carpenter, M.Inst.C.E., President of the South Metropolitan Gas Company, at the general meeting of that concern held on 8th February. He complained that the company was compelled to buy its coal—which, with that required by two associated undertakings, amounted to nearly 2,000,000 tons annually—at prices fixed behind closed doors by a committee of coal owners authorised so to act by the Coal Mines Act, 1930. Moreover, for the purposes of the same Act, gasworks were de-classed as industrial users, with the consequence of an increased price compared with that paid for the

same coal by iron and steel works, foreign undertakings or coke-oven concerns whose by-products competed with those of the company. Dr. CARPENTER stigmatised the quota system as "objectionable," pointed out that the quotas allocated could be bought and sold, and instanced a case of a colliery company which supplied the gas company purchasing another 40,000 tons of quota at 4½d. a ton "although the other company had done nothing whatever for this money, and, in fact, the coal it represented is probably still lying unworked under the ground." Dr. CARPENTER concluded: "The Coal Mines Act, 1930, was a political enactment rather than one of statecraft. I think I have said enough to show that it is doing great harm to the business of gas manufacture, the extended need of which for the achievement of a purer atmosphere in our cities and towns cannot be too strongly stressed. The Act to-day is an encouragement to the extended use of imported fuel in the form of oil." No doubt the task of dealing fairly with the various interests affected by an Act of Parliament is an exceedingly arduous one and provides a potent argument for a *laissez-faire* policy. But however far legislative interference is to be deprecated, there are undoubtedly instances where it is justified. Whether the means taken in any particular case are satisfactory or the reverse is a question probably best answered by the producers and consumers of the product in question, and from this viewpoint the foregoing statement is an important as well as an interesting criticism of the Coal Mines Act, 1930.

Novelists and the Law.

LORD MACMILLAN has just revealed, in an interesting letter to *The Times*, the fact that the late Mr. JOHN GALSWORTHY, though a barrister himself, did not disdain when dealing with legal problems to fortify himself with another opinion, and that when writing "Maid in Waiting" he administered a series of interrogatories to the learned Lord of Appeal on the law of extradition. Mr. GALSWORTHY, whose "Soames Forsyte" will always be remembered as perhaps the best portrait of the family solicitor in fiction, set an example that might well be followed by others. Novelists' law in the past has been far from sound. DICKENS probably knew a good deal of law and was certainly familiar with all kinds of legal proceedings. "Oliver Twist" helped to bring about reforms in the Poor Law, and "Bleak House" in its opening chapters is in strong contrast to the modern procedure of the Chancery Division. But DICKENS rarely, if ever, brought any question of law into his novels; he was content to describe the legal atmosphere. GEORGE ELIOT, in one of her novels, we believe, introduced the complications caused by the creation of a base fee, and she probably had expert legal advice on her work before publication. The late Mr. MAURICE HEWLETT, who knew something about mediæval law and customs, completely upset the plot of one of his modern novels by ignorance of the elementary principle that a will was revoked by marriage. The modern detective story writer is bound to know his criminal law and practice. SYDNEY FOWLER'S "The King against Anne Bickerton" contains one of the best descriptions of a trial for murder in modern fiction. But it has been left for a woman writer, Miss DOROTHY SAYERS, in her clever novel "Unnatural Death," to use as a motive for murder an alteration in the law made by the Law of Property legislation of 1925. An old lady towards the end of 1925 is suffering from a mortal disease, and a person in whose charge she is realises that if the lady cannot be induced to make a will in her favour (which event happens) and lives into 1926, she, though now one of her presumptive next of kin, will cease to be so. See the Administration of Estates Act, 1925, s. 46, which the author must have studied carefully. And therefore it is necessary for the old lady to die suddenly by a new and painless method which leaves no clue. This original novel should interest both the medical and the legal professions.

The Town and Country Planning Act, 1932.

THE CONTENTS AND EFFECTS OF SCHEMES—POWER TO ENFORCE—OWNER'S RIGHT TO OPPOSE SCHEME.

BY S. P. J. MERLIN, Barrister-at-Law.

ARTICLE II.

THOSE amongst us who are fortunate or unfortunate enough to possess legal consciences find it very boring as a rule to have to peruse long Acts of Parliament, and schedules thereto, in order to keep abreast of the ever-increasing volume of legislation. This Town Planning Act, 1932, however, is, as Sir William Hart very rightly said at the last annual meeting of The Law Society, at Bristol, "a delightful one to read, though there may be some who will think differently."

Proceeding now to deal briefly with the provisions in the Act as to what a town planning scheme shall contain, it is seen that s. 11 prescribes that every scheme shall define the area to which it applies, and shall specify the authority or authorities who are to be responsible for enforcing the provisions of the scheme. Moreover, every scheme must contain such provisions as are necessary or expedient for prohibiting or regulating the *development* of land in the area to which the scheme applies, and in particular for dealing with any of the twenty-one matters mentioned in the Second Schedule of the Act.

The expression "development" is defined in s. 53 of the Act as, including (in relation to land), "any building operations or *rebuilding* operations, and any use of the land or any building thereon for a purpose which is different from the purpose for which the land or building was last being used, provided that . . . the use of land within the curtilage of a dwelling-house for any fresh purpose, other than building operations, shall not be deemed to be a development of that land if the purpose is incidental to the enjoyment of the dwelling-house as such."

And it should be noted by practitioners and others responsible for drafting schemes that s. 11 contains an overriding provision to the effect that, where it is expedient in order to promote proper planning or development a scheme may provide for suspending the operation of any provision, whether contained in a statute, or in an order, bye-law or regulation, under whatever authority made, in so far as that provision is similar to, or inconsistent with, any of the provisions of the scheme.

It will be seen in s. 12 of the Act that the time-honoured right of the owner of a freehold plot of building land to build thereon a house of such a size, height, design and external appearance as his fancy may fondly dictate, will now become a thing of the past. This novel limitation on the rights of property owners is, however, subject to a right of appeal, in any person aggrieved, to a court of summary jurisdiction, or to a tribunal to be constituted for the purpose under the scheme.

The provisions of s. 12 in relation to what restrictions may be inserted in schemes, with respect to buildings and building operations, are important and far-reaching. They enable a scheme to include provisions: prescribing the space about buildings, limiting the number of buildings, imposing restrictions upon the manner in which buildings *may be used*, including, in the case of dwelling-houses, the letting thereof in separate tenements; and also prohibiting building operations or regulating such operations in respect of matters other than those specified in this section.

Moreover, it is to be observed that the provisions which may be inserted in a scheme may differ as respects different parts of the area to which the scheme applies, and be made applicable to *existing buildings* as well as proposed new

buildings. Buildings used mainly or exclusively for agricultural purposes are excluded from the application of this section (see s. 12 (3)).

In s. 13, sub-s. (1), very large powers are given to the planning authorities to enforce and implement their schemes. Subject to giving and serving due notices, and to a right of appeal to the local court of summary jurisdiction, the powers they may exercise are, in abbreviated form and amongst others: (*a*) To remove, pull down, or alter, so as to bring into conformity with the provisions of the scheme, *any existing or future building* . . . which does not conform to those provisions; (*b*) To prohibit the user of any building or land which is being used in such a manner as to contravene any provision of the scheme; (*c*) To execute, where delay, etc., has occurred, any work which it is the duty of any person to execute under the scheme.

Sub-sections (2) to (7) of this section 13 are new, and provide a short code of procedure for carrying out a scheme, or for opposing any action taken in pursuance of it. In the first place it is laid down that before taking action the responsible authority shall serve a notice (twenty-eight days in some cases, six months in others) on the owner and occupier of the property in question, and on any other person who, in their opinion, may be affected thereby, specifying the nature of, and the grounds upon which they propose to take, that action.

Procedure where Owner disputes Scheme.

Where any person served with such a notice, as above mentioned, desires to dispute any allegation contained therein, he may, by written notice served on the clerk of the court and the authority within twenty-eight days from the date of the service of the original notice on him, appeal to a court of summary jurisdiction for the petty sessional division within which the property in question is situated, and no action shall be taken by the authority under sub-s. (1) of s. 13 pending the final determination or withdrawal of the appeal.

And if on any such appeal the court are satisfied that the authority are entitled to take the proposed action on the grounds specified in the notice, they shall dismiss the appeal, and shall by their order empower the authority, after the expiration of the prescribed period, to remove, pull down, or alter the building or work, or reinstate the land or execute the required work, or, as the case may be, shall by their order prohibit the building or land from being used in contravention of the scheme, but if they are not so satisfied, they shall allow the scheme.

This right of the owner or occupier to have direct recourse to the court, together with a right to appeal to quarter sessions, is regarded in many quarters as a most valuable feature in the Act, and is one which will tend to make it much more acceptable to the general body of property owners.

A considerable number of disputes will probably arise as to the three expressions used in this section 13, namely, "existing building," "existing work," and "existing use." Very full definitions of these terms are given in s. 53 of the Act, which should be referred to, and is a good example of a well-drafted definition section.

Summarised very briefly, an "existing building" and "existing work" mean respectively a building or work erected, constructed or carried out before the material date. And "existing use" means in relation to any building or land, a use of that building or land for any purpose of the same or a similar character to that for which it was last used before the material date. And, as a general rule, the "material date" means the date on which the Minister has approved the resolution to adopt or prepare the scheme.

With reference to those cases under the Act, where an appeal lies to the justices, a further right of appeal to the quarter sessions is given against the decision of the justices, and the time allowed for appeal is extended to twenty-eight days by s. 39. Moreover, in all matters under the Act wherein an appeal may be made to the justices, it is permissible for the parties alternatively to agree "either that the matter in dispute shall be determined by the Minister, or that it shall be referred to the arbitration of such person as may be agreed on, or, in default of agreement, appointed by the Minister." This latter alternative is a very useful provision and should often enable the parties to entrust the decision of a dispute to the arbitrament of someone of experience in whom both sides have confidence.

(*To be continued.*)

Too many Charities and the Remedy.

[Contributed.]

The present policy of the law to encourage charitable gifts, with the exception of those which infringe the even more ancient policy of mortmain, is no doubt a benevolent one. As the result of it the legal definition or conception of a charitable purpose is even wider than the popular notion of one, which must be fairly comprehensive. Some of the border-line cases are discussed in "A Conveyancer's Diary," *ante*, pp. 57 and 74. As a consequence of the law's tolerance, a vast number of sectarian, semi-political and proselytising bodies and trusts not only exist, but continue existences artificially prolonged because they are judicially recognised and exempted from the operation of the law against perpetuities. The word "crank" is perhaps a harsh one, but a popular vote might carry its application to those who establish or support such charities, as, for example, those found legally valid in *Re Foveaux* [1895] 2 Ch. 501 and *Re Slatter* (1905), 49 Sol. J. 314.

In the days of the country's opulence the question whether particular work was unnecessary or unprofitable was not important; now that national economy is needed, waste of effort should be regarded with much more jealousy. Waste of effort means waste of time and money, and undoubtedly the administration of charities as now carried on is responsible for much unprofitable activity. When two or more charities have the same objects and operate in the same places there is waste in the overlapping energy of several staffs doing work which could be done better and more economically by one. As an example of waste of effort, proselytising bodies, all good religious charities, are perhaps worst of all. If, at a vast expense of money, a thousand Protestants are turned into Roman Catholics, the good or bad done is surely offset by the other bodies which turn a thousand Roman Catholics into Protestants. Again, the anti-vivisection societies, and those to foster a fuller medical research, can all justify their existence and their activities by exalted arguments. An anti-vivisection society has been held to be a charity, and there can be little doubt that a medical research society, to enable doctors to abate human suffering and fight disease and death by all means possible, would similarly be included. In effect, however, the aim of an anti-vivisection body is to nullify the work of a medical research society, and *vice versa*. If then the object of one is good, the object of the other must be pernicious. And similarly with the Protestants and Roman Catholics. There is a society to turn Jews into Christians; there does not appear to be one to re-convert them, but were it founded it would certainly have a religious basis, and so presumably be valid.

Vigorous criticism of the undue width of the law has, of course, from time to time been made from the Bench. The law as at present construed and administered is practically based on the definition of charity given by Lord Macnaghten in *Commissioners, etc.* v. *Pemsel* [1891] A.C. 531, at p. 583, in which it was held that the Moravian Mission was a charity, but the propositions laid down did not escape scathing comment, both from Lord Halsbury and Lord Bramwell. Thus, the latter, p. 564: "I hold that the conversion of heathens and heathen nations to Christianity or any other religion is not a

charitable purpose. That it is benevolent I admit. The provider of funds for such a purpose doubtless thinks that the conversion will make the converts better and happier during this life, with better hope hereafter. I daresay this donor did so. So did those who provided the faggots and racks which were used as instruments of conversion in times gone by . . . if the mere good intent makes the purpose charitable, then I say that the intent is the same in the one case as in the other."

If Lord Bramwell went too far, and missions to convert the heathen are still to be deemed charitable, it may be suggested as a basis for one reform that the purpose of converting those who are already Christians from one sect to another should no longer be considered charitable, at least as the subject of future donation. This would involve an undertaking by each church that donations for its general purposes should not directly be used for the purposes of proselytisation. Indirectly, no doubt, each church must attract adherents by the sincerity of its services and the eloquence and persuasiveness of its preachers. The suggestion made is that future endowments should not be applicable to mere propaganda. The discrimination as to the ordinary activities of a church and those expressly aimed to attract converts should not be beyond the competence of a qualified auditor.

Charities directed to the physical welfare of poor people and children are obviously to be encouraged. From one point of view, their spiritual welfare is even more important, but the difficulty arises that, whereas physical welfare can easily be measured, spiritual welfare has been for hundreds of years and remains a matter of bitter controversy. Indeed, when the Church of England was the only religion tolerated, the question of spiritual welfare was more easily answered than it is to-day, though the answer was a narrow one.

It may also be suggested that legal recognition of charities to benefit animals has gone rather far, at any rate so far as the overlapping previously referred to is concerned. Blood-sports, vivisection and flesh eating may be viewed as deplorable by certain kind-hearted people; on the other hand, that large proportion of otherwise excellent citizens who tolerate these practices, and, without noticeably diminishing the quality of their citizenship, actively participate in or encourage them should the opportunity occur, would be alarmed and annoyed if humanitarians of this kind got their way and imposed their vetos on such practices In fact, it is not unlikely that the effect would be to create a new form of blood-sport with the humanitarian as the quarry.

Discrimination as to charities is, of course, no new thing, and the War Charities Act of 1916 is a fairly recent instance of it. Since the days of Queen Elizabeth, Parliament has left the question of charitable intent to judges, who have been pleased to find benevolent purpose, and anxious to further it. The question is whether in the endowment of doctrine and dogma and tolerance of expensive but short-sighted propaganda they have not gone too far when national economy demands that money should be spent for useful purposes.

EAST AFRICAN CRIMINAL COURTS.

The Secretary of State for the Colonies has appointed a Commission to undertake an inquiry into the administration of justice in criminal matters in East Africa. The personnel of the Commission is as follows:—Chairman: Mr. H. G. Bushe, Legal Adviser to the Secretary of State for the Colonies; Members: Mr. A. D. A. MacGregor, K.C., Attorney-General, Kenya; Mr. W. MacLellan Wilson, of Kiambu, Kenya; Mr. C. E. Law, Puisne Judge, Uganda; Mr. P. E. Mitchell, Secretary for Native Affairs, Tanganyika; Secretary: Mr. J. B. Griffin, Registrar of the High Court, Uganda. The terms of reference of the Commission will be: To inquire into the administration of the criminal law in Kenya, Uganda, and the Tanganyika Territory in relation to the procedure and practice of (*a*) the courts other than Native Courts, and (*b*) the police authorities, and to consider whether, in regard to the procedure or practice of such courts or authorities, any alterations are desirable (*a*) in the case of natives, and (*b*) generally.

Company Law and Practice.

CLXIX.

PREFERENTIAL DEBTS IN A WINDING UP.

I PROPOSE this week to discuss certain aspects of s. 264 of the Companies Act, 1929, which deals, I hope my readers will forgive me for reminding them, with the payment of priority debts in a winding up. This section, which reproduces, with some important additions, s. 209 of the Act of 1908, provides in short effect that certain debts of a company in a winding up must be paid before the general creditors can get anything at all. On referring to the section, we find that these include parochial and local rates which have become due and payable within twelve months before the relevant date, and assessed taxes, land tax, property and income tax assessed up to the 5th of April next before the relevant date, but not exceeding in the whole one year's assessment. The relevant date is prescribed by sub-s. (7) to be (*a*) in the case of a company which is being wound up compulsorily and which had not hitherto commenced to be wound up voluntarily, the date of the winding up order; and (*b*) in any other case, the date of the commencement of the winding up. Sub-section (1) (*b*) of the section confers the priority on all wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant in respect of services rendered to the company during the four months next before the relevant date, not exceeding fifty pounds. Now this particular clause of sub-s. (1) is one which has caused, and frequently causes, very great difficulties in its application, and I propose to consider it in some detail.

The clause itself is identical with s. 33 (1) (*b*) of the Bankruptcy Act, 1914, save that the provision as to salary earned by way of commission, which was introduced into that section by the Bankruptcy (Amendment) Act, 1926, s. 2, appears in this clause for the first time. The relevant date is that prescribed by sub-s. (7). The chief difficulty which is experienced in applying the clause is the proper construction to be put upon the words "clerk or servant." Unfortunately, the authorities upon the question as to who is, and who is not, a servant, have in the past been somewhat conflicting, and it has only been of comparatively recent years that any really guiding principles have emerged from the cases.

At one time it seemed as though the test was whether the employment was occasional or not. To constitute a man a servant a degree of permanency in his employment was essential. In *ex parte Walter*, 15 Eq. 412, a music master and a drill sergeant proved as preferential creditors in the bankruptcy of a schoolmaster. It appeared that both had attended at the school twice a week at so much per hour, and were paid by the term. Notwithstanding that both had attended during the whole term, Bacon, C.J., was clearly of the opinion that they were neither clerks nor servants, and said that their attendance rather resembled that of a "surgeon or apothecary." It appears from this case that the period over which the person is paid does not affect the question as to whether he is a servant or not. On the old cases there seemed to be authority for the proposition that, although the hiring need not be for so long a period as a year, yet it must be for longer than a week, even though the payment was made weekly: see *ex parte Crawfoot*, Mont. 270. The length of the employment was the important factor.

It is probable, however, that in view of the more recent authorities, the principles upon which some of these older cases were decided would no longer be applied in construing the section to-day. To appreciate more easily the *raison d'être* of the present test as to whether a certain employee is the servant of his master or not, let us consider the question for a moment in the light of the law relating to civil liability. Taking the employee as the agent of his master, engaged for the performance of a particular task or tasks, the agent may

be said to be employed in one of two capacities. He may be employed as an independent contractor, in which case his master will not, subject to certain well-known exceptions, be liable for any tortious acts committed by him in the performance of his work; or he may be employed as a servant, when his master is vicariously liable for all acts committed by him within the scope of his employment. Now an independant contractor is one who is employed *ad hoc* for the performance of a particular piece of work—a plumber clearly comes within this class. So long as he mends the pipes, the employer cannot interfere with the way he does the work. But a chauffeur engaged to drive his master's car is under the direct control of his master. He must drive at such speed, and take such routes, as his master orders. The difference between these two classes of persons is clear, and illustrates the test to be applied. This test, as was pointed out by Blackburn, J., in *Reg.* v. *Negus*, L.R. 2, Ch. C, at p. 37, is really this—is the person, who is alleged to be a servant, under the control and bound to obey his master as to the manner in which he does the work. An independant contractor so long as he produces the desired result is not under the direct control of the employer, and can use his own discretion as to the manner in which he performs his task. But a servant is bound in all respects to obey his master, and his discretion is strictly limited. The element of control as the basis of the test to be applied is now generally recognised, as a perusal of the modern authorities clearly shows. For a very thorough and comprehensive examination of the authorities upon the subject, I invite my readers' attention to the case of *Performing Right Society* v. *Mitchell & Booker* [1924] 1 K.B. 762, where the law is clearly stated by McCardie, J., in a considered judgment.

From the point of view of s. 264, however, perhaps the case of *In re Ashley and Smith Ltd.* [1918] 2 Ch. 378, furnishes a better example of the principles by which the court will be guided in determining whether a person is a "servant" within the meaning of the section. In that case two contributors to a newspaper claimed that they were entitled in a debenture-holders' action against the company owning the newspaper to arrears of salary, on the ground that such arrears were preferential debts within the meaning of s. 209 of the Act of 1908. If they could prove that they were servants of the company, they were clearly entitled. They were both of them engaged to report on certain sporting events at so much an article, and at so much for every meeting they attended. In deciding on the facts that they were not servants of the company, Sargent, J., said this: "I particularly note four circumstances. In the first place they were working entirely away from the company, and not in the office of the company at all. Secondly, they were not exclusively employed in the service of the company, but they might have taken up any amount of work for other persons . . . Thirdly, they were not bound to render services generally, but only a particular class of service. Fourthly, and most important of all, they might perform the service in question practically as they pleased; they were not working under the control of the company or subject to the command of the master under whom they worked. I do not say that any one of those four circumstances, except possibly the last, would be entirely conclusive; but I do think that, when all those four circumstances are taken together, it is impossible to say that either of those persons was a servant of the company." As will be seen, Sargent, J., brings out very clearly the element of control which must be necessary to constitute the relationship of master and servant between employer and employee.

(To be continued.)

Mr. Alfred William Dunn, barrister-at-law, of the Inner Temple, E.C., left estate of the gross value of £5,030, with net personalty £4,338. He left £350 and household linen to the value of £20 and his wearing apparel to his maid, Clara Young, if in his service at his death.

A Conveyancer's Diary.

Protective Trusts.—*continued.*

LAST week I dealt with cl. (i) of s. 33 of the T.A., 1925, and pointed out what I considered to be deficiencies in it and how it might be improved by express provisions in the instrument creating the trust.

The next question which I have to consider is what will cause a forfeiture under the statutory clause.

In the first place, of course, there is bankruptcy.

There are a few points in this connection to which I may refer.

Although cl. (i) refers in terms only to some act or thing or event to be done or to happen in the future, yet it applies when bankruptcy precedes the settlement, even when the bankruptcy of the beneficiary is known to the settlor or testator.

In *Trappes* v. *Meredith* (1871), 7 Ch. 248, a testatrix, knowing that her husband was bankrupt, gave by her will a life annuity to him subject to a proviso that if he should become bankrupt or should assign the annuity, then it should cease, and a further proviso that it should be lawful for the trustees of her will at any time to refuse payment of the annuity which in that case was to go over.

It was held that the existing bankruptcy operated as a forfeiture, notwithstanding the words of futurity in the will and the discretion given to the trustees.

A more recent case where a similar question arose is *Re Evans; Public Trustee* v. *Evans* [1920] 2 Ch. 304.

There a testator by his will, dated in December, 1911, devised and bequeathed his estate to trustees upon trust for sale, and proceeded: "Out of my estate I desire my trustees to pay to my son H an annuity of £150, to be paid monthly, unless he attempts to assign it or to become bankrupt." In those events there was a discretionary trust. By a codicil, dated in 1918, the testator devised freehold property to his son H for the term of his life or "until he shall do some act to effectuate a sale or mortgage thereof or which shall forfeit the same in the case of bankruptcy," in either of which events the property was to fall into the residuary estate. The son H had become bankrupt before the date of the will and obtained his discharge after the testator's death.

So far as the devise in the codicil was concerned, it was held, following *Trappes* v. *Meredith*, that the words "until he shall do," etc., in the devise, although phrased in terms of futurity, applied to the past bankruptcy of H.

It was also held that the words "unless he attempts to become bankrupt" in the will must be read in their strict grammatical sense, and so did not apply to a bankruptcy *in invitum* or bankruptcy generally, and consequently no forfeiture of the annuity had occurred and the annuity was payable to the trustee in bankruptcy of H.

The result of that seems to have been that, whilst the words in question in the will must be read "in their strict grammatical sense," the words used in the codicil should not be so read.

The decision in *Trappes* v. *Meredith* has been the subject of adverse judicial comment, but it has always been followed.

There have been several interesting cases upon the effect of a bankruptcy which was subsequently annulled.

In *White* v. *Chitty* (1866), 1 Eq. 372, a testator devised freeholds to C for life with a clause of forfeiture on bankruptcy. C was a bankrupt at the time of the testator's death, but within four months afterwards the bankruptcy was annulled. The official assignee had not in the meantime applied for or obtained possession or a receiver of the rents, C being in occupation of the property. It was held that the forfeiture clause applied to a bankruptcy taking place during the testator's lifetime, but that as the bankrupt by his diligence had obtained an annulment of the bankruptcy before any claim made or property handed or paid over the forfeiture contemplated by the testator had not occurred.

Again, in *Lloyd* v. *Lloyd* (1866), 2 Eq., p. 722, it was held that there was no forfeiture where there was a gift of a share in residue subject to a proviso for forfeiture on bankruptcy and the bankrupt legatee had obtained his discharge within twelve months after the death of the testator and before the residue had been ascertained or any step taken to obtain the income for the creditors.

Ancona v. *Waddell* (1878), 10 Ch. D. 157, was a similar case, where a testatrix gave a life interest in a share of her residuary estate to a bankrupt subject to a forfeiture clause. The bankruptcy was annulled three years after the death of the testatrix, but before the residue had been ascertained and there was no actual income which could be treated as payable to or appropriated for the bankrupt. It was held that there was no forfeiture.

The basis of the decisions in these cases, stated shortly, seems to have been that the event contemplated by the forfeiture clause, namely, the passing of the life interest of the bankrupt to other persons, had not in fact happened. In *White* v. *Chitty* the bankruptcy was annulled before any rents had become due, the bankrupt being in possession, and in *Lloyd* v. *Lloyd* and *Ancona* v. *Waddell*, before the residuary estate of the testator had been ascertained or appropriated, and although apparently some income had accrued, no definite part of it could be said to have become payable to the bankrupt.

On the other hand, in *Re Parnham's Trusts* (1872), 13 Eq. 413, forfeiture was held to have occurred notwithstanding annulment of the bankruptcy.

By a will a fund was given (subject to a prior life interest) to R for life, provided that if (amongst other things) by act or operation of law he should be personally deprived of the receipt and benefit of the bequest then the life interest should cease and the income should go to the persons entitled in remainder. At the time of the determination of the life interest and for several years afterwards R was a bankrupt and in consequence the fund was paid into court under the Trustee Relief Act. Before any petition was presented for payment out of the fund or application of the income for the benefit of the persons entitled in remainder, R procured the annulment of his bankruptcy on the terms that the past dividends should be paid to the assignee.

It was held that R had forfeited his life interest.

The result was the same in *Metcalfe* v. *Metcalfe* [1891] 3 Ch. 1.

In that case a testator gave his real and personal estate to trustees in trust to pay the income to his children as tenants in common with right of survivorship. He then declared that if by any act or by operation of law any interests given by his will to his children should be aliened whereby the same should vest in any other person, then the trustees should pay or apply the interest so aliened amongst the other persons entitled as though the person aliening were dead. One of the children became bankrupt between the date of the will and the death of the testator. Within a year after the testator's death the bankrupt became entitled to property which enabled all the debts to be paid, but the bankruptcy was not annulled until more than two years afterwards. In the meantime the trustees had paid the rents and profits to the other children on the basis that the interest of the bankrupt child had become forfeited.

It was held by the Court of Appeal that the interest of the bankrupt child was forfeited.

A similar case is *Re Loftus-Otway : Otway* v. *Otway* [1895] 2 Ch. 235.

The facts there were that H was entitled in reversion to a life interest in certain property, subject to forfeiture if he should do or suffer anything whereby he would be "deprived or be liable to be deprived" of the beneficial enjoyment thereof. Before his interest fell into possession he committed an act of bankruptcy, upon which a bankruptcy petition was presented against him. After his interest fell into possession the petition was dismissed, but before the dismissal the trustees of the property had funds in their hands representing income which, but for the bankruptcy proceedings, might have been paid to him.

It was held that a forfeiture had occurred.

It will be observed that in these cases income had actually accrued before the termination of the bankruptcy. In *Re Parnham* the income had been paid into court, and in *Metcalfe* v. *Metcalfe* it had in fact been paid over to other parties entitled upon a forfeiture, whilst in *Re Loftus-Otway* the income accrued was "liable to be" paid to other persons, that is, to the trustee in bankruptcy, if there were no forfeiture, and to the other parties interested under a discretionary trust, if there were.

There are other cases, but I think those which I have mentioned show the trend of the decisions.

The authorities were exhaustively considered and discussed in the recent case of *Re Forder : Forder* v. *Forder* [1927] 2 Ch. 291.

That was a case where the income of a share in residue was given to a bankrupt subject to forfeiture on bankruptcy. The bankrupt obtained annulment of the bankruptcy before there had been any actual appropriation of the residue, but not, on the facts as ultimately found by the Court of Appeal, before there had been income in the hands of the trustees which could be treated as payable to or retained or appropriated for the bankrupt. The interest of the bankrupt had therefore become forfeited.

The result of the authorities may be stated to be that, if before annulment there is any time at which the trustees of the fund have in hand money of which, but for the forfeiture clause, the trustee in bankruptcy could claim immediate payment, then the annulment will not prevent a forfeiture. On the other hand, if the legatee's interest, though technically vested in possession, is of such a character (for example, a claim as residuary legatee against the estate of a testator who has not been dead for twelve months) as not to become, before the annulment, enforceable so as to lead to immediate payment, annulment will be in time and the forfeiture will not operate.

I may add that in the last-named case Lord Hanworth, M.R., and Sargant and Lawrence, L.JJ., all emphatically expressed the view that the crucial time to be ascertained is not when any payment is actually made by the trustees of the fund, or when any step is taken to enforce payment, but the time when any such payment or step could properly have been made or taken. If the bankruptcy is annulled before that time, there will be no forfeiture ; but if after that time, forfeiture is not avoided.

Next week I propose to direct attention to authorities upon the question of forfeiture or no forfeiture upon occasions other than bankruptcy.

Landlord and Tenant Notebook.

The Position of Equitable Assignees of Terms.

When *Walsh* v. *Lonsdale* (1882), 21 Ch. D. 9, C.A., had settled the position of parties to an unexecuted agreement for a lease, the impression was created in some minds that seals might practically be dispensed with. Now assignor and assignee are, like landlord and tenant, grantor and grantee of an estate in law ; but attempts to apply the "doctrine of *Walsh* v. *Lonsdale*" (as Mr. Foa called it in a case in which he appeared, though I notice that his book does not use the expression) to equitable assignments by tenants led to disappointment.

Friary Holroyd & Healey's Breweries Ltd. v. *Singleton* [1899] 1 Ch. 86, illustrates the position. There was a lessor's covenant to convey the freehold on six months' notice being

given. The plaintiffs, who had given notice, claimed through the liquidator of another company, the original tenants, which had gone into liquidation for reconstruction purposes, in fulfilment of which the liquidator had agreed to assign the lease to them. They had entered into occupation and paid rent, but the old company had been dissolved (and there were then no provisions for resuscitation; see now the Companies Act, 1929, s. 294) without having completed the sale. It was argued that possession and payment of rent brought about a state of affairs analogous to that in *Walsh* v. *Lonsdale*, but in vain; and the Court of Appeal, which reversed the decision on the ground that the lessors' conduct in relation to the notice estopped them, approved the judgment on this point.

Conversely, the tenant may derive advantage from the difference between the two status, e.g., when a loosely-drawn covenant against alienation is alleged to have been infringed. Thus, in *Gentle* v. *Faulkner* [1900] 2 Q.B. 267, C.A., the Court of Appeal allowed an appeal against a judgment of Ridley, J., who had held that a covenant not to assign the premises or any part thereof had been infringed by an agreement to stand possessed upon trust for the trustee appointed by the tenant's creditors, the trustee having taken possession. The Court of Appeal pointed out that the learned judge had misapplied the Judicature Act, 1873, s. 24 (4), by which equitable rights and duties were to be recognised as the Court of Chancery had recognised them; this did not make an equitable assignee a legal assignee.

Nowadays, covenants against alienation are usually more elaborate, and would meet such a case by providing against parting with possession or occupancy.

But an intending landlord in a position to call for specific performance is fully able to enforce covenants against legal assignees, as was shown in *Goldstein* v. *Sanders* [1915] 1 Ch. 549. The action was for possession and was based on a proviso for re-entry on breach of covenant not to assign, without consent, contained in an agreement to let made in 1900 but never completed. The intending tenant had assigned to one H, without informing the intending lessor, and H, after agreeing to assign to the defendant, had applied for and been refused the necessary consent. Dealing with an argument that there was no privity between the parties, Eve, J., said: "I think the proper way to approach the question is to ascertain what would have been H's position had the agreement been superseded by a lease . . . Would not any lease have contained a covenant . . . to the effect of this covenant in the executory agreement? H.'s claim would have been as assignee of the agreement."

It may seem surprising, at first blush, that an assignment by a tenant, in order to be effective against the landlord, has to be by deed, no matter what kind of term be held. Before the passing of the Real Property Act, 1845 (now L.P.A., 1925, s. 52 (1)) a deed *or note in writing* sufficed: *Botting* v. *Martin* (1808), 1 Camp. 317; Statute of Frauds (now L.P.A., 1925, s. 40). But the necessity for a deed came to the fore in the course of *Keeves* v. *Dean; Nunn* v. *Pellegrini* [1924] 1 K.B. 685, which decided the non-assignability of statutory tenancies. In both cases the original tenancy had been a verbal one. In the one case there had, in fact, been an assignment by indenture, and in the other an agreement to assign. The assignment in the first case was not put in; but with regard to the second case it was pointed out that apart from the question of the status of a statutory tenant, defendant was in this dilemma: if the agreed assignment were for valuable consideration, the Rent, etc., Restrictions Act avoided it; if not for valuable consideration, it did not even amount to an equitable assignment.

Mr. Kyrle Chatfield Hankinson, solicitor, of Tunbridge Wells, and of Arundel-street, W.C., left estate valued at £9,727, "so far as can at present be ascertained," with net personalty £3,070.

Our County Court Letter.

COUNTY COUNCIL'S LIABILITY FOR TENANT RIGHT.

In the recent case of *Spreckley* v. *Leicestershire County Council*, at Melton Mowbray County Court, a claim was made for one year's rent (viz., £225), as compensation for disturbance under the Agricultural Holdings Act, 1923, s. 12. The respondents contended that, as they had not received particulars of the loss or expenses incurred, the notice was insufficient, and did not comply with the above Act, s. 16 (2). The arbitrator had therefore submitted a special case, for the opinion of the court, as to whether he was entitled to receive evidence of such loss or expenses—directly attributable to the applicant's quitting the holding. The evidence was that (*a*) in consequence of his receipt of a notice to quit, the tenant claimed additional compensation on the 23rd November, 1931; (*b*) he quitted the holding on the 6th April, 1932, and his valuers gave notice of the amount claimed on the 21st May. The applicant's case was that, as he was only claiming the minimum to which he was entitled, it was unnecessary to furnish particulars of his loss or expenses. The respondents contended, however, that the particulars were a condition precedent, under s. 16 (2), and therefore the claim was unenforceable—as the applicant was out of time. His Honour Judge Haydon, K.C., held that the notice of claim was valid, and the question submitted was therefore answered in favour of the applicant, with costs. Compare *Olive* v. *Paynter* [1932] W.N. 179; *In re Digby and Penny* [1932] 2 K.B. 491; and *In re O'Connor* [1933] 1 K.B. 20.

INTESTACY OF STATUTORY TENANT.

The above subject was recently considered at Leeds County Court in *Taylor* v. *Lofthouse*, in which a claim for possession was made on the following grounds: (1) the defendant's father (having occupied the house since 1904) had died intestate in 1921, whereupon his widow, by virtue of the Increase of Rent, etc., Act, 1920, s. 12 (*g*), became statutory tenant; (2) on her death (in 1924) the defendant had continued in occupation, and the rent-book was altered by the substitution of the defendant's name for the widow's; (3) the house was nevertheless de-controlled, as it was unnecessary to perform the farce of ejecting the defendant (in order to obtain "actual" possession) and then re-admitting her. The defence relied upon the Rent, etc., Restrictions Act, 1923, s. 2 (3), and His Honour Judge Woodcock, K.C., observed that the question was whether the widow had a personal right to protection (which ceased on her death) or whether the protection was inherent in the house—apart from contract. The plaintiff, having once had the right to resume possession, had not done so, and the house was therefore still controlled. Judgment was accordingly given for the defendant, with costs, but His Honour observed that he would be interested (if the case was taken further) to see what view the Divisional Court would take. The above case (by reason of the insertion of the defendant's name in the rent-book) was distinguishable from *Pain* v. *Cobb* [1931] 47 T.L.R. 596. Mr. Justice Swift there observed, however, that he did not think the Legislature ever intended to create a personal right which should go on in perpetuity.

In Lighter Vein.

The Week's Anniversary.

On the 19th February, 1863, Mr. Justice Shee died suddenly of apoplexy at Sussex Place, Hyde Park Gardens. His father was an Irishman and a Roman Catholic, and he himself was consequently educated at St. Cuthbert's College, Ushaw, where he had for schoolfellow his cousin Nicholas Wiseman, the future Cardinal. In 1823, he was called to the Bar at

Lincoln's Inn, which he exchanged for Serjeants' Inn in 1840 when he assumed the coif. At the Bar, where he was regarded as a good lawyer and an effective, though somewhat ponderous, advocate, his genial common-sense made him thoroughly popular. He was wise enough to decline in 1860 the Chief Justiceship of Madras, for, three years later, he succeeded Mr. Justice Wightman in the Court of Queen's Bench—the first judge of his faith to be appointed since the fall of James II. His religion, however, did not prevent a long and remarkable friendship with Mr. Justice Lush, who was a strict Baptist. When they were at the Bar it used to be said that they were the only two men on the Home Circuit who had the slightest sense of religion about them.

Humility by Tradition.

When His Honour Judge Tobin recently told a barrister who "very humbly apologised" for his client that there was no need to grovel he was perhaps a little hard on the ancient formalities of forensic tradition as illustrated in a very charming letter written by the future Lord Chancellor Cowper to his wife in 1688: "I have to tell you, my dear Judith, that I have made my maiden motion in the King's Bench and, by the help of self-persuasion and reasoning with myself, without much of the bashfulness I am naturally inclined to. Upon asking the standers-by their opinion of my Performance they only found fault that I did not interweave what I said with civill expressions enough to his Lordshipp, as 'May it please your Lordshipp' or 'I am humbly to move your Lordshipp,' and the like. But that fault will be amended for the future and to that end you shall find me to practis my extraordinary civility on your sweet self."

An Ambiguous Verdict.

While the noble and learned lords of our supreme appellate tribunal were endeavouring to straighten out in their minds the legal implications of the curiously involved verdict in *Morris* v. *Associated Newspapers, Ltd. and Another* (*coram* McCardie, J.), Lord Buckmaster remarked that the jury seemed to have wished to give a verdict for the defendants and at the same time to protect the plaintiff's character. Backing the issue both ways is a favourite gamble in the jury-box. Once in the court of (I think, but am not certain) His Honour Judge Cluer, the foreman of an intelligent jury announced their verdict as follows: "We don't think the defendant was negligent, but we think the plaintiff ought to have £24 compensation." "Very well then," said the judge, "that will be £3 from each of you." Lord Buckmaster also commented on the great mischief which may arise from splitting up cases into innumerable questions, departing from the austere simplicity of the single question which was good enough for our fathers: "Do you find for the plaintiff or for the defendant?" One recalls the famous summing up of a judge of the old school in a case of long arguments and contradictory evidence: "Gentlemen of the jury, you have heard the evidence and the speeches of the learned counsel. If you believe the old woman in red, you will find for the plaintiff; if you do not believe her, you will find for the defendant." That was all.

"A. Lemon."

When the learned judge at the Clerkenwell County Court asked recently what was the real name of a particular individual, counsel replied: "The answer is A. Lemon. It is the first time the answer has been true." As a matter of fact, it is not the first time. Not so long ago, a witness in the King's Bench Division said that he had sold five lemons for £210, explaining, in reply to a question from the Bench, that the term was used in the motor trade for second-hand cars of little value. "So," observed Avory, J., "the answer is a lemon."

Reviews.

Palmer's Company Precedents. Part II: Winding Up Forms and Practice. Fourteenth Edition. 1933. By Alfred F. Topham, LL.M., Bencher of Lincoln's Inn, one of His Majesty's Counsel, Alfred Robert Taylour, M.A., and A. M. R. Topham, B.A., both of Lincoln's Inn, Barristers-at-Law. Medium 8vo. pp. clx and (with Index) 1406. London: Stevens & Sons, Ltd. £3 3s. net.

Hope deferred, we have on excellent authority, maketh the heart sick, but at last, more than three years after the coming into operation of the Companies Act, 1929, we have the winding up volume of "Palmer," and the advertisements in the public press tell us that the third and last, and in some ways most important, volume is now in the press. Not that we would have our readers complain, or think that we are complaining; the editing of such a work is a stupendous task, the magnitude of which can only be appreciated by those who have tried to bring up to date any standard legal work of any size.

A serious question does, however, arise in this connection, for, under present conditions, the editing of this sort of work is rapidly becoming a whole-time job, and the number of persons who are prepared to sacrifice the small amount of leisure at their disposal to the service of their fellow practitioners is likely to diminish year by year. Examples of the serious consequences which have, in recent years, attended such endeavours, will probably occur to many readers; and it does seem that there is a grave problem to be faced in this connection.

The gratitude of the profession as a whole is, therefore, particularly due to Mr. Topham and his able assistants for the attention which has been given to the bringing up to date of this volume; it is practically indispensable to any person who is concerned (and who is not, at the present time?) with the winding up of companies, and the owner can rest assured that he has before him all the relevant law and practice on the subject. Indeed, in some respects, there seems to be a superfluity of information, for the Companies Act, 1929, is reproduced *in extenso*, as also it is in vol. I; this may be a convenience to some people, but our own personal taste would incline to a less bulky volume.

At p. 495, or in the addenda, reference should have been made to *Re Airedale Garage Co.*, now reported [1933] 1 Ch. 64; while the case of *Kershaw, Leese & Co.* v. *Stockport Overseers* [1923] 2 K.B. 129, referred to on the same page, which was decided before the coming into operation of the present series of statutes dealing with rating, cannot now be of much assistance in this connection.

Books Received.

Examination Notes on Building Society Law and Practice. By G. S. Riley, B.Com. (Lond.). 1932. F'cap 8vo. pp. vii and (with Index) 46. London: Sir Isaac Pitman & Sons, Ltd. 2s. 6d. net.

The Law of Evidence. By W. Nembhard Hibbert, LL.D. (Lond.). Sixth edition. 1933. Demy 8vo. pp. xvi and (with Index) 120. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

A Practical Guide to the Land Charges Act, 1925. By A. H. Cosway. Second Edition. 1933. Crown 8vo. pp. ix and (with Index) 109. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

Palmer's Company Law. Fifteenth Edition. 1933. By Alfred F. Topham, LL.M., Bencher of Lincoln's Inn, one of His Majesty's Counsel, and A. M. R. Topham, B.A., of Lincoln's Inn, Barrister-at-Law. Medium 8vo. pp. clxxiv and (with Index) 783. London: Stevens & Sons, Ltd. 25s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Executory Gift Over—Ascertainment of Class.

Q. 2656. By his will A devised "Blackacre" unto B, her heirs, administrators and assigns for ever, and declared that the said devise "is and shall be subject to the proviso hereinafter contained that is to say Provided always in case B shall happen to die without leaving any child or children living at the time of her death or the issue of any child or children of the said B born within due time after her decease the said devise hereinbefore made to her shall henceforth determine and I give and bequeath the said hereditaments and premises unto all my sons their respective heirs executors administrators and assigns in equal shares as tenants in common and not as joint tenants." A died in 1887, leaving him surviving B and four sons. B has recently died without ever having married and has left her surviving one of A's four sons, the other three having predeceased her. A's will was proved by the two executors therein named, both of whom predeceased B and died prior to 1st January, 1926. A general grant of probate has been taken to B's will. The estate duty payable on her death in respect of "Blackacre" has not yet been paid, but her executors propose to pay this on an Account Form C.1. Will you please give us your opinion on the following points :—

(1) Who is beneficially entitled to "Blackacre" ?

(2) How and by whom can a title be made to "Blackacre" ?

(3) Who are the Settled Land Act trustees of the settlement created by the Will of A, the will having appointed no trustees for the purposes of the Settled Land Acts ?

A. We express the opinion that the will of A gave B the fee simple in "Blackacre," subject to divestment in certain events which have happened. There was, therefore, a "settlement" both under the old law (S.L.A., 1882, s. 58 (1) (ii)) and the new (S.L.A., 1925, s. 20 (1) (ii)), and on 1st January, 1926, the legal estate vested in B (L.P.A., 1925, Sched. I, Pt. II, paras. 3 and 6 (*c*)), and is now in her general personal representatives, the settlement being spent (*Re Bridgett and Hayes' Contract*, 71 Sol. J. 910). Where there is an executory gift over to children, the time for the ascertainment of the class of children is the happening of the event on which the gift over takes effect, the property being then distributable (*Ellison* v. *Airey*, 1 Ves. 111). The fact that the gift over was to the sons, "their respective heirs executors administrators and assigns in equal shares," etc., does not affect the position in our view. If there was a question of lapse the addition of words of limitation would not prevent a lapse, and thus it would appear that the words of limitation are merely descriptive of the interest which such sons as take are to have. On this basis the surviving son of A alive at the death of B takes the whole absolutely. The answers to the specific questions are :—

(1) The only son of A alive at the death of B.

(2) The general personal representatives of B can make title to a purchaser, but it will be borne in mind that they ought only to sell for the payment of duties or the like administrative purpose. Alternatively these personal representatives can assent in favour of the surviving son of A, who can then sell as absolute beneficial owner.

(3) If the chain of representation in the estate of A is not broken, his personal representatives (by representation) are the S.L.A. trustees (S.L.A., 1925, s. 30 (3)). If the chain is broken there do not appear to be any such trustees.

Qualification for Old Age Pension.

Q. 2657. X, a widow, has an investment income which is sufficiently large to disentitle her to any old age pension. For the purpose of qualifying for such a pension and in order to avoid death duties she now proposes to make a gift of the whole of her property to her son M. The reason for the gift would be frankly admitted to the Pensions Committee. Does this plan qualify the widow for a pension ?

A. Death duties will only be avoided if the donor survives for three years, and the Pensions Committee are entitled to take into account the yearly value of free board and residence. The latter will doubtless be provided by the son, and the value at which the same is assessed will affect the amount of the pension allowed, or may even disqualify the widow entirely, if on a sufficiently lavish scale as regards accommodation provided.

Covenant for Payment of Money Six Months after Demand.

Q. 2658. A client of mine recently sold his business to his son at the price of £500. The son did not pay for the business in cash, but covenanted in the assignment that he would "pay to the vendor or his successors in title the said purchase money of £500 at the expiration of six calendar months from the receipt by him of notice in writing requiring such payment, and in the meantime and until such demand and payment shall be made the purchaser will pay to the Vendor or his successors in title the interest on the aforesaid sum at the rate of 5 per cent. per annum, such interest to be paid quarterly." Since preparing this assignment, I have felt considerable doubt as to whether this clause did not infringe the rule against perpetuities, as there is no time limit stated in the covenant, and I should be glad of your advice on this point.

A. The rule against perpetuities has no application. It is not an uncommon thing for money to be made payable after demand. Apart from covenants so to pay, instances are : bank deposits withdrawable on (7) days' notice, and a bill of exchange or promissory note payable a certain time after demand. The appropriate Statute of Limitations does not run till demand and the expiring of the period named, though if there has been no payment or acknowledgment for very many years an action might be dismissed as a stale demand. The questioner might refer to *Re Rutherford, Brown* v. *Rutherford* (1880), 14 Ch. D. 687, for an action on a promissory note payable three months after demand.

Income Tax of Bankrupt's Wife.

Q. 2659. X is the trustee in the bankruptcy of A, the adjudication having been made on 24th October, 1931. X has received from the Inland Revenue a sum of money representing a repayment of income tax. The whole of this tax was suffered by the bankrupt's wife in respect of the income of her separate estate for the year April, 1930—April, 1931. Where a wife does not claim a separate assessment (and in the present case the wife did not so claim) the repayment of tax is made to the husband. In the case in question the repayment has been made to X as trustee in A's bankruptcy. The wife now claims the whole of the tax repaid, stating (as is perfectly true) that it was all suffered by her in respect of her separate estate. X desires to be advised whether he can safely pay the money over to the wife or whether he is entitled

to retain it for the benefit of the bankrupt's estate. X points out that if the position were reversed, i.e., if tax was due from the wife instead of repayable by the Inland Revenue the income tax authorities would claim it (as a preferential payment) from the trustee.

A. X is not entitled to retain the repaid tax for the benefit of the bankrupt's estate, as it is impressed with a trust in favour of the wife. The repayment shows that the amount ought never in fact to have been exacted from the wife's separate estate, and the repayment is made to the husband (or rather to X as his trustee) merely as agent for the wife. The fact that the husband and wife are assessed together is merely due to a revenue law, designed to facilitate collection, and to diminish the expense of administration to the other taxpayers. The Crown assesses the joint estate as one, without prejudice to the respective rights of the spouses *inter se*. The analogy of what would happen, if the position were reversed, is a fallacious guide, as the income tax authorities would claim a preferential payment (from the trustee) merely by virtue of their overriding powers as collectors. This circumstance is, therefore, no argument for the trustee to retain the amount as against the wife.

Five per cent. War Stock Conversion—Commission Payable to a Broker, Banker or Solicitor.

Q. 2660. A tenant for life of a sum of War Stock requested his trustees to convert the holding into 3½ per cent. Stock, and he suggested that the application for conversion should be sent through his brokers. The application form for the conversion of the stock was lodged by the solicitor acting for the trustees and the solicitor stamped the application form with his name as being the solicitor lodging the application and in due course he received a warrant from the Bank of England for the commission payable in respect of the conversion of the stock. Will you please say if the solicitor acting for the trustees is entitled to retain the commission in question or should the same be remitted to the broker acting for the tenant for life ?

A. As the only persons authorised to make application for conversion were the stockholders, i.e., the trustees, and as the consultation with the life owner was merely a matter of courtesy (trustees being expressly authorised to convert by s. 13 of the Finance (No. 2) Act, 1931), we fail to see how the stockbroker could possibly have any claim.

Lease—Covenant to Register Deeds Assigning and Probates and Letters of Administration—Assent by Administrator to Himself.

Q. 2661. A lease contains the usual covenant to register with the lessor's solicitors all deeds whereby the property shall be assigned to or become vested in any person including probates and letters of administration. On the death of the lessee before 1926 the property passed to her husband to whom were granted letters of administration of her estate. He in his capacity of personal representative executes an assent in favour of himself as beneficiary for all the estate or interest of the deceased. Since the legal estate vests in the husband directly he obtains letters of administration is there any necessity to register with the lessors' solicitors (in addition to the letters of administration) the assent which we maintain merely changes the capacity in which he holds the property from that as personal representative to absolute owner.

A. The opinion is given that there is no necessity to register the assent, first because it is not a deed, and secondly because it does not pass any estate, although admittedly the husband's liability to the lessor after the assent may differ slightly from his liability as administrator.

A UNIVERSAL APPEAL

To Lawyers: For a Postcard or a Guinea for a Model Form of Bequest to the Hospital for Epilepsy and Paralysis, Maida Vale, W.9.

Obituary.

Mr. C. F. LOWENTHAL, K.C.

Mr. Charles Frederick Lowenthal, K.C., Recorder of Hull and Treasurer of the Middle Temple, died at his home in Kensington on Friday, 10th February, after a short illness. He was educated at Marlborough and was called to the Bar by the Middle Temple in 1888, joining the North-Eastern Circuit. In 1908 he was appointed junior Counsel to H.M. Commissioners of Works, and held that position till he took silk in 1926. He became the first Recorder of Huddersfield in 1919, and was elected a Bencher of his Inn in the same year. In 1928 he was transferred to the Recordership of Hull. Mr. Lowenthal had been a member of the General Council of the Bar for many years.

Mr. H. T. WRIGHT.

Mr. Harold Tucker Wright, Barrister-at-Law, of Paper-buildings, Temple, died on Saturday, 11th February, at the age of sixty-six. Mr. Wright was called to the Bar by the Inner Temple in 1895 and was a member of the Midland Circuit. By his death another vacancy has been created in the General Council of the Bar, to which Mr. Wright was re-elected last week.

Mr. A. A. JOHNSON.

Major Arthur Ainslee Johnson, solicitor, Clerk to the Shropshire County Council, died recently at Shrewsbury, at the age of forty-three. Major Johnson, who was admitted a solicitor in 1912, practised at Newcastle-on-Tyne until 1921. He then became Assistant Solicitor to the Berkshire County Council, being appointed Deputy Clerk in 1923. He was appointed Clerk to the Shropshire County Council in 1926, and also became Clerk of the Peace for the County and Clerk of the Standing Joint Committee.

Mr. A. PROCTER.

Mr. Alfred Procter, solicitor, of York, Coroner for the city and for the North and East Riding Divisions of Yorkshire, died on Saturday, 11th February, at the age of seventy-one. Mr. Procter, who was admitted a solicitor in 1882, was the surviving partner in the firm of Messrs. Holtby & Procter, of York. In December last he amalgamated with the old-established firm of Messrs. Francis Ware & Lucas, and the firm is now known as Messrs. Ware, Holtby & Procter. He had been Clerk to the Magistrates of the Ouse and Derwent Petty Sessional Division since 1910. On three occasions Mr. Procter had been City Under-Sheriff of York, and in 1906 he acted as Town Clerk.

Mr. W. SIMPSON.

Mr. William Simpson, solicitor, senior partner in the firm of Messrs. Owston & Co., of Leicester, died suddenly at Leicester on Sunday, 12th February, at the age of seventy-eight. Mr. Simpson was Honorary Secretary of the Leicester Law Society from 1884 till 1904 and President of the Society in 1912. He was admitted in 1877.

Mr. C. P. R. YOUNG.

Mr. Charles Philip Radford Young, late Judge of the High Court of Burma, died at Gerrard's Cross on Wednesday, 1st February, at the age of sixty-seven. Educated at Eton and Pembroke College, Oxford, he was called to the Bar by the Inner Temple in 1894 and practised at Bombay. He became Government Advocate in Burma in 1907, and was appointed a Judge of the Chief Court in 1919, and of the High Court in 1922. He retired in 1925.

RESIGNATION OF CANADIAN CHIEF JUSTICE.

The Right Hon. F. A. Anglin, Chief Justice of Canada, who was appointed in 1924, tendered his resignation on Saturday, 11th February, on account of ill-health.

Notes of Cases.

House of Lords.

London and North Eastern Railway Company *v.* Brentnall.

2nd February.

Workmen's Compensation—Injury while off Duty—Hostel provided by Employers.

The question raised by this case was whether the respondent J. H. Brentnall, who was an engine driver in the employ of the appellant company, suffered personal injury caused by an accident arising out of and in course of his employment when the accident happened after he had booked off duty at a hostel provided by the appellant company. On 16th April, 1931, the respondent took a goods train from Woodford Halse to Sheffield and booked off duty at the latter place at 9.5 a.m. His next turn on duty began at 7.40 p.m. on the same day. After booking off duty he left the company's premises and walked to the appellants' hostel, which was provided by the company for men who happened to be released from duty in places where they were not resident, and in such circumstances an employee had to get permission to go elsewhere than the hostel. While walking down an asphalte slope on the hostel premises he slipped and fell, and sustained slight injury. On the respondent's claim for compensation the county court judge held that the accident arose out of and in the course of his employment, and awarded him £1 10s. a week from 16th April, 1931, to 6th May, 1931, and on appeal by the railway company the Court of Appeal upheld the award. The company now appealed.

Lord Buckmaster, in giving judgment, said the respondent was under an obligation in the intervals between his journeys to go and stay at the hostel provided by the company. He was bound not only to go there, but the county court judge found that if he was not taking proper rest it became the duty of the caretaker of the hostel to let the people in the locomotive shed know of the fact. The amount involved was small, but the company were anxious to secure some definite decision as to their liability in such cases. It was not however prudent in his lordship's opinion, to attempt to lay down general principles in cases of this kind. This case fell to be determined by a very simple consideration. The respondent was bound to go to the hostel, and from the time he left Woodford Halse until he returned at night he was in the employment of the company and on the spot where the accident occurred. That the accident arose out of his employment on the facts seemed to him indisputable, and it was also in the course of his employment if due weight was given to the circumstance that it was part of his employment that he should go to that place and take adequate rest. In his opinion the appeal failed and should be dismissed with costs.

Lords Warrington, Tomlin, Russell and Wright agreed.

Counsel: *Singleton*, K.C., and *Gilbert J. Paull; W. Shakespeare*, and *G. Raymond Hinchcliffe*.

Solicitors: *J. B. Pritchard; Pattinson & Brewer*.

[Reported by S. E. Williams, Esq., Barrister-at-Law.]

Court of Appeal.

Stevens & Sons *v.* Timber and General Mutual Accident Insurance Association, Limited.

Slesser and Romer, L.JJ. 1st February.

Contract—Insurance—Disclaimer of Liability under Policy—Action by Assured—Application to stay pending Arbitration under Arbitration Clause—Disclaimer of Liability not necessarily Repudiation of entire Policy.

Appeal from a decision of Acton, J., in chambers.

The plaintiffs had for some years insured with the defendants in respect of liability to the plaintiffs' workmen under the Workmen's Compensation Acts. On the plaintiffs making a claim in respect of one such liability, the association alleged that the workman in question had, some time before the accident, lost the sight of one eye; that in answer to a question in the proposal for the policy dated 9th January, 1926, whether any workman in the plaintiffs' employment had lost the sight of an eye, the answer had been "No"; and that, by reason of that concealment of a material fact, the association was not liable to make good the claim. The plaintiffs then brought this action, but the association applied to stay the action on the ground that, by reason of the presence in the policy of the usual arbitration clause, the plaintiffs must proceed to arbitration in the agreed manner before taking legal proceedings. Acton, J., stayed the proceedings, and the plaintiffs appealed. They alleged that they were unaware before the accident that the workman had lost the sight of an eye. Their case for appeal was that the association had in fact repudiated the policy, and that they could not repudiate it on the one hand and claim the benefit of the arbitration clause on the other. The court dismissed the appeal.

Slesser, L.J., in a considered judgment, said he thought, on consideration of all the facts, that the insurance company never intended to repudiate the whole contract as such, but only to repudiate their liability under the contract. The case thus resembled that of *Woodall* v. *Pearl Assurance Company* [1919] 1 K.B. 593, where the insurance company similarly had denied liability on the policy in fact on the ground that the assured had made a mis-statement (in that case of occupation) in the proposal. It was held that the company, by relying on the terms of the policy which rendered it void in certain events, did not thereby repudiate the policy as a binding contract between the parties, but insisted on the obtaining of an award as a condition precedent to a right of action. Moreover, the plaintiffs had not agreed to any repudiation, and he shared the doubts expressed by Scrutton, L.J., in *Golding* v. *London & Edinburgh Insurance Co.* (43 Ll. List 487), when he said: "I have never been able to understand what effect the repudiation of one party has unless the other accepts the repudiation."

Counsel: *Hilbery*, K.C., and *Paul Springman*, for the appellants; *van den Berg*, K.C., and *H. D. Samuels*, for the respondent association.

Solicitors: *Roberts, Seyd, Jackman & Falck*, for the appellants; *White & Co.*, for respondent association.

[Reported by G. T. Whitfield-Hayes, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Crosse: Crosse *v.* Crosse.

Luxmoore, J. 13th January.

Will—Construction—Trust in Favour of Testator's Daughters and their Children—Gift over on Death Without Issue—"Others and Other" of his Children—Child or Children other than Child on Whose Death Gift over Took Effect.

The testator died on the 20th February, 1884. Under the trusts of his will he bequeathed to his wife the income of his residuary estate for life. He further directed that after her death £30,000 should be raised, of which £6,000 was to be paid to the trustees of the marriage settlement of one of his daughters. The income of the remaining £24,000 was to be paid to his four other daughters in equal shares during their respective lives. After the death of each, the share of which she had enjoyed the income was to be held upon such trusts for her children as she should appoint; and in default of appointment in trust for such children as should attain twenty-one or being girls marry under that age in equal

shares; and in default of such issue, in trust, both as regards the original share and that eventually limited under the executory trusts, "for the others and other of my said children," sons as well as daughters. Each of the daughters was given a power of appointment in regard to her husband of a life interest in the income of her share. The testator's widow died in 1897. Two of his daughters died married, but childless, one in 1922 and the other in 1901. The husband of the former died in 1922. The husband of the latter was still living in enjoyment of a life interest appointed to him by his wife. Of the surviving daughters, the daughter into whose marriage settlement £6,000 had been paid was a widow with two daughters, both of whom had come of age. Another was eighty-six years old and unmarried. The third was seventy-eight years old and married, but childless. This summons was taken out to determine on what trusts should be held the quarter share of the fund of £24,000 of which the income had been given for life to the daughter who died in 1922.

LUXMOORE, J., in giving judgment, said that the question was as to the meaning of the gift for "others and other of my said children." In the case of *In re Chaston*, 18 Ch. D. 218, similar words were used, which Fry, J., read as meaning the child or children other than the child on whose death the gift over was to take effect. On this construction in the present case the share was divisible on the death of the beneficiary into five equal shares, one going to the estate of each of the two sons and the remaining three to each of the surviving daughters. No part would accrue to the estate of the daughter who died in 1901.

COUNSEL: *Braund; Shebbeare; J. W. Gray, N. G. Touche* and *Evershed*.

SOLICITORS: *R. G. Harrison*, for *Crosse, Wyatt & Co.*, of South Molton, Devon; *Griffith, Smith, Wade & Riley; Cunningham, Blake & Mossman*, for *Godwin & White*, of Southampton.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Stead Hazel and Co. *v.* Cooper.

Lawrence, J. 18th January.

CONTRACT—COMPANY IN LIQUIDATION—NO DISCLAIMER BY LIQUIDATOR OF PRE-EXISTING CONTRACT—CONTRACT GOODS NOT ACCEPTED—LIQUIDATOR NOT PERSONALLY LIABLE—COMPANIES ACT, 1929 (19 & 20 Geo. 5, c. 23), s. 267.

By a contract dated the 17th October, 1929, the plaintiffs, Stead Hazel and Co., agreed to sell, and a company, Trent Mill (1920), Limited, agreed to buy, bales of cotton in monthly instalments, cash before delivery. On the 12th March, 1930, an order was made for the winding up of Trent Mill (1920), Limited, and on the 6th May, 1930, the defendant, D. Cooper, was appointed liquidator by the court. He carried on the business of the company and requested the plaintiffs to continue to deliver under the contract. On the 20th June, 1930, he wrote to the plaintiffs asking that the payment for the cotton might in future be made after delivery. The plaintiffs acceded to that request. The bales of cotton due for delivery in August, 1930, were not accepted either by the company or by the defendant, and the plaintiffs thereupon brought an action for breach of contract against the defendant personally, alleging that he had neglected and/or refused to take delivery of the bales. The defendant pleaded, *inter alia*, that he had acted solely as liquidator and/or agent for the company and was under no personal liability to the plaintiffs.

LAWRENCE, J., said that it was contended on behalf of the plaintiffs that the defendant was personally liable, first, because he wrote the letter of the 20th June, by which it was said that he undertook personal liability; and secondly, because he had the right to disclaim the contract under s. 267 of the Companies Act, 1929, and was therefore personally liable on any contract which he had not disclaimed. He (his lordship) did not accept either of those contentions, and he held that the defendant was not personally liable. The position of a liquidator appointed by the court was not the same as that of a receiver and manager appointed by the court; the former was the agent of the company and acted for and in the interests of the company, the latter was not the agent of the company, but acted for and in the interest of the debenture-holders and not for the company. He found that the defendant did not purport to contract on his own behalf, nor did the plaintiffs give him credit on his own behalf. He was also of opinion that a liquidator's position was not altered in regard to his personal liability by s. 267 of the Companies Act, 1929, which gave him the right to disclaim any contract which he thought onerous. If he was not personally liable before that statutory provision was introduced it would require clear words to create such a liability, and there were none. Judgment for the defendant, with costs.

COUNSEL: *S. C. Vincent Addinsell*, for the plaintiffs; *Laski*, K.C., and *A. J. Hodgson*, for the defendant.

SOLICITORS: *Layton & Co.*, Liverpool; *Hill, Dickinson and Co.*, for *J. Arnold Brierley & Robinson*, Oldham.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Mould *v.* Mould.

Bateson, J. 30th January.

DIVORCE—ANSWER TO PETITION FOR PERMANENT MAINTENANCE—WIFE'S "CONDUCT"—HUSBAND'S ALLEGATIONS (INCLUDING ADULTERY) NOT MADE IN MAIN SUIT—REGISTRAR'S ORDER TO STRIKE OUT SET ASIDE—SCOPE OF ENQUIRY ON MAINTENANCE PETITION—ESTOPPEL—MATRIMONIAL CAUSES RULES, 1924, r. 69—JUDICATURE (CONSOLIDATION) ACT, 1925 (15 & 16 Geo. 5, c. 49), s. 190, sub-s. (1).

Summons adjourned into court.

This was an appeal by a respondent husband from an order of the registrar striking out certain allegations of conduct on the part of the wife contained in the husband's answer to the petition for permanent maintenance. In 1928 the wife petitioned for restitution of conjugal rights. The husband filed an answer alleging just cause, pleading, *inter alia*, the wife's association with another man short of adultery. The wife filed a reply denying the allegations. Subsequently there was a deed of separation between the parties and the petition for restitution of conjugal rights was dismissed. There was no withdrawal by the husband of his allegations. In 1931 the wife obtained a decree of dissolution in an undefended suit, and on decree absolute filed a petition for permanent maintenance. In his answer the husband set up the allegations previously made by him, in opposing the restitution proceedings, as amounting to conduct of the wife proper for consideration of the court within sub-s. (1) of s. 190 of the Judicature Act, 1925. The husband now further alleged the adultery of the wife. On the application of the wife the registrar struck out this matter from the answer. The husband appealed, and the summons was adjourned into court for further argument.

BATESON, J., in the course of giving judgment, said that the case was covered by *Restall* v. *Restall* [1930] P. 139, in which the Court of Appeal had dealt with the Judicature (Consolidation) Act, 1925, s. 190, sub-s. (1), although that case was one of nullity. The allegations which the wife desired to be struck out were material on the question as to whether any order for maintenance to be made should contain a *dum casta* clause. For the wife it had been contended that the allegations should have been pleaded in bar in the suit for dissolution, and that it was not right that the respondent should get rid of the

marriage tie by not defending and be entitled to set up in proceedings for permanent maintenance what ought to have been a defence in the principal suit. He (his Lordship) agreed that it was to a large extent an inconvenient course, but the court was bound to follow the decision in *Restall* v. *Restall*, *supra*. There was a further contention that the husband, having allowed the decree for dissolution to go by default, was now estopped from setting up the matters in question. But he (his Lordship) could see no estoppel. There had never been a decision on these matters. And finally, it was said that as now Divorce Rule 69 gave the registrar power to make an order instead of merely reporting to the court, the registrar now had a discretion which should not be interfered with. That discretion might exist, but it must be exercised in the light of *Restall* v. *Restall* (*supra*), which was a binding authority. In the result, the registrar must try what was practically a divorce case. In doing that he would be called on to decide on the conduct of both parties and to consider the question as a whole. That part of the order of the registrar striking allegations out of the answer must be rescinded. There would be an order for the wife's costs. Leave to appeal was given.

COUNSEL: *H. B. Durley Grazebrook*, for the husband; *G. C. Tyndale*, for the wife.

SOLICITORS: *Shelton, Cobb & Co.*, for *Shelton, Wearing and Bates*, Wolverhampton; *J. Carnegie*, for *Hatwell, Pritchett and Co.*, Birmingham.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

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Parliamentary News.

Progress of Bills.

House of Lords.

Adelphi Estate Bill.
Read First Time. [8th February.

Amersham, Beaconsfield and District Water Bill.
Read Second Time. [15th February.

Assurance Companies (Winding-up) Bill.
Read First Time. [14th February.

Barking Corporation Bill.
Read First Time. [8th February.

Bootle Corporation Bill.
Read Second Time. [14th February.

Calvinistic Methodist or Presbyterian Church of Wales Bill.
Read First Time. [8th February.

Cancer Hospital (Free) Bill.
Read First Time. [8th February.

Canterbury Extension Bill.
Read First Time. [8th February.

Colne Corporation Bill.
Read Second Time. [15th February.

Dearne District Traction Bill.
Read First Time. [8th February.

Dover Harbour Bill.
Read Second Time. [14th February.

East Hull Gas Bill.
Read Second Time. [15th February.

Essex County Council Bill.
Read First Time. [8th February.

Foreign Judgments (Reciprocal Enforcement) Bill.
Read Second Time. [14th February.

London Overground Wires, &c. Bill.
Read Second Time. [14th February.

London Passenger Transport Bill.
Read First Time. [15th February.

Lyme Regis District Water Bill.
Read First Time. [8th February.

Middlesbrough Corporation Bill.
Read First Time. [8th February.

Ministry of Health Provisional Order (Buckingham and Oxford) Bill.
Read First Time. [14th February.

Ministry of Health Provisional Order (Leek) Bill.
Read First Time. [14th February.

Ministry of Health Provisional Order (Rugby Joint Hospital District) Bill.
Read First Time. [14th February.

Ministry of Health Provisional Order (Taunton and District Joint Hospital District) Bill.
Read First Time. [14th February.

Oxford Corporation Bill.
Read First Time. [8th February.

Protection of Birds Bill.
Read Second Time. [14th February.

Rhondda Passenger Transport Bill.
Read First Time. [8th February.

Road Traffic (Compensation for Accidents) Bill.
Read First Time. [15th February.

Road Traffic (Speedometer) Bill.
Read Second Time. [14th February.

Rugby Corporation Bill.
Read Second Time. [14th February.

Salford Corporation Bill.
Read Second Time. [14th February.

Samaritan Free Hospital for Women Bill.
Read First Time. [8th February.

South Metropolitan Gas Bill.
Read Second Time. [15th February.

South Suburban Gas Bill.
Read Second Time. [15th February.

Torquay and Paignton Traction Bill.
Read First Time. [8th February.

Wigan Corporation Bill.
Read First Time. [8th February.

Wimbledon Corporation Bill.
Read Second Time. [14th February.

Worksop Corporation Bill.
Read Second Time. [14th February.

House of Commons.

Austrian Loan Guarantee Bill.
In Committee. [14th February.

Bridlington Corporation Bill.
Read Second Time. [14th February.

City of London (Various Powers) Bill.
Read Second Time. [13th February.

Commercial Gas Bill.
Read Second Time. [14th February.

Dewsbury Corporation Bill.
Read Second Time. [13th February.

False Oaths (Scotland) Bill.
Read Second Time. [15th February.

Frimley and Farnborough District Water Bill.
Read Second Time. [13th February.

Gas Light and Coke Company Bill.
Read Second Time. [14th February.

Great Western Railway Bill.
Read Second Time. [13th February.

Housing (Financial Provisions) (Scotland) Bill.
Read Second Time. [9th February.

Kingston-upon-Hull Corporation Bill.
Read Second Time. [13th February.

London and North Eastern Railway Bill.
Read Second Time. [13th February.

London Midland and Scottish Railway Bill.
Read Second Time. [13th February.

London Passenger Transport Bill.
Read Third Time. [14th February.
Mablethorpe and Sutton Urban District Council Bill.
Read Second Time. [13th February.
Manchester Corporation Bill.
Read Second Time. [15th February.
Manchester Ship Canal Bill.
Read Second Time. [13th February.
Mersey Tunnel Bill.
Read Second Time. [13th February.
Ministry of Health Provisional Order (Buckingham and Oxford) Bill.
Read Third Time. [13th February.
Ministry of Health Provisional Order (Chester and Lancaster) Bill.
Read Second Time. [15th February.
Ministry of Health Provisional Order (Eton Joint Hospital District) Bill.
Read Second Time. [15th February.
Ministry of Health Provisional Order (Taunton and District Joint Hospital District) Bill.
Read Third Time. [13th February.
Plympton St. Mary Rural District Council Bill.
Read Second Time. [13th February.
Preston Corporation Bill.
Read Second Time. [13th February.
Sheffield Extension Bill.
Read Second Time. [13th February.
Sidmouth Urban District Council Bill.
Read Second Time. [13th February.
Southern Railway Bill.
Read Second Time. [15th February.
Staffordshire and Worcestershire Canal Bill.
Read Second Time. [13th February.
Visiting Forces (British Commonwealth) Bill.
Read Second Time. [13th February.

Questions to Ministers.

ARBITRATION LAW.

Mr. HARTLAND asked the Attorney-General whether, in view of the representations of commercial bodies in the City of London, he proposes to give statutory effect to the recommendations contained in the report presented by the then Lord Chancellor, Viscount Cave, to Parliament in March, 1927, for the amendment of the law of arbitration to remedy admitted defects?

THE ATTORNEY-GENERAL (Sir Thomas Inskip): I fear it will not be possible to do so during this Session. [15th February.

Societies.

The Berks, Bucks and Oxfordshire Incorporated Law Society.

The general meeting of the Berks, Bucks and Oxfordshire Incorporated Law Society was held at The Randolph Hotel, Oxford, at 3.15 p.m., on Wednesday, the 11th January, 1933. The following were present: Mr. Henry Jordan (president), Mr. J. C. B. Gamlen (vice-president), and Messrs. H. Torry Baines, H. L. C. Barrett, C. Bartram, E. Dennis Berry, G. S. Blaker, H. R. Blaker, Ernest W. Brain, A. J. Clarke, R. P. Clarke, H. S. Clemons, E. Cecil Durant, J. M. Eldridge, H. F. Galpin, J. G. Glover, W. H. Linnell, G. Mallam, Miss K. S. Mallam, Messrs. F. E. Marshall, J. Moorwood, M. R. Peecock, F. J. Ratcliffe, E. L. Reynolds, H. C. Rose, J. Bruce Simmons, J. Snow, J. J. Sprigge, H. Thomson, S. E. Wilkins, W. J. Winter-Taylor, and H. C. Dryland (secretary).

The minutes of the last general meeting having been approved and signed by the president, the treasurer's statement of the accounts of the society which showed balances in hand were approved on the motion of the president, seconded by Mr. E. Cecil Durant.

In moving the approval of the accounts, the president referred to the bequest made by the late Mr. Philip John Rutland to the society of £100 War Stock, to be held as capital, and the income to be applied as income of the society's benevolent fund.

The president next submitted, and moved the approval of, the report of the committee which was seconded by Mr. F. J. Ratcliffe.

In speaking to the motion, Mr. W. J. Winter-Taylor enquired as to the position of the Solicitors' Bill, 1932. Mr. H. R. Blaker, in reply, stated that a committee was sitting to consider the Bill, so that nothing definite could be reported at the moment.

Mr. Cecil Bartram referred to the question of the keeping by solicitors of separate banking accounts, and Mr. George Mallam raised the point as to the right of bankers, when a separate client's account was kept, which they well knew to be a client's account, to set-off any credit balance on such account against any debit balance on the solicitor's personal account.

Mr. J. M. Eldridge enquired the position with regard to the Rent Restrictions Bill, and Mr. Blaker replied. The motion was then put to the meeting and was declared to be carried unanimously.

The secretary next proposed, in accordance with notice, that a donation of twenty guineas be made out of the funds of the society in the name of Mr. Henry Jordan, the president of the society, to the Solicitors' Benevolent Association. The motion was seconded by Mr. H. R. Blaker. Mr. A. J. Clarke moved as an amendment that, instead of the donation being a donation of twenty guineas in the name of Mr. Henry Jordan, ten guineas should be in the name of Mr. Jordan, and ten guineas in the name of the secretary. In moving the amendment, Mr. A. J. Clarke stated that he did not desire in any way to depreciate the valuable services which the president had rendered to the society, but that he felt that as the secretary was this year retiring, it would be some small mark of their appreciation of his services if the donation was split up in the manner which he had suggested. The motion was seconded by Mr. H. Torry Baines, and having been put to the meeting by Mr. A. J. Clarke, was carried unanimously.

On speaking to the motion, one or two members made suggestions with a view to increase the number of subscribers to the association.

The president (Mr. Henry Jordan) then proposed, Mr. George Mallam seconded, and it was unanimously resolved that Mr. J. C. B. Gamlen, of Oxford, be elected president, and that Mr. Stanley Edward Wilkins, of Aylesbury, be elected vice-president for the ensuing year. Messrs. J. C. B. Gamlen and Stanley E. Wilkins in reply thanked the meeting for the confidence reposed in them.

Mr. Henry Jordan next moved that Mr. Ernest Walter Brain, of Reading, be elected to be the honorary secretary of the society, and that for this year the offices of treasurer and secretary be again combined. In moving the resolution Mr. Jordan referred to the regret which the members felt at the resignation of Mr. H. C. Dryland, who had held the office of secretary for nearly twenty-five years. The motion was seconded by Mr. H. C. Dryland, who thanked the president for his kind remarks, and, having been put to the meeting, the resolution was carried unanimously.

Mr. E. Dennis Berry then moved, Mr. E. L. Reynolds seconded, and it was unanimously resolved that Messrs. H. Torry Baines, H. L. C. Barrett, H. R. Blaker, W. Bliss, Roland P. Clarke, H. C. Dryland, J. M. Eldridge, Henry Jordan and F. J. Ratcliffe be elected as members of the committee for the ensuing year.

On consideration of the question of the date and place for the holding of the general meeting for 1933, it was moved by Mr. E. Cecil Durant, seconded by Mr. John Snow and unanimously resolved that the matter be left to the decision of the committee.

By the permission of the meeting Mr. J. J. Sprigge referred to the Solicitors' Bill, 1932, and moved that it be an instruction to the committee to call a special general meeting of the members of the society to consider the draft of any rules which The Law Society might propose to make under the Bill when it became an Act, such meeting to be held prior to any meeting of the Associated Provincial Law Societies which might be called for the purpose of considering the draft rules. The resolution was seconded by Mr. W. J. Winter-Taylor, and having been put to the meeting was declared to be carried *nem. con.* In speaking to the resolution Mr. H. R. Blaker and Mr. H. C. Dryland stated that it was by no means certain that the draft rules would be submitted to the Associated Provincial Law Societies, or to this society, and that their view was that if the members of the society desired to have an opportunity of considering the matter themselves and not to leave it to the committee, it was desirable that a resolution to that effect should be passed and forwarded to The Law Society. Mr. H. C. Dryland then moved, Mr. George Mallam seconded, and it was resolved "that The Law Society be requested to submit to this society for their consideration the draft of any rules which The Law Society may propose to make under the Solicitors' Bill, 1932, before such rules are actually made." The resolution was put to the meeting and carried unanimously.

The committee having invited The Law Society to hold their provincial meeting for 1933 at Oxford, the meeting

next considered, in accordance with notice, the question of any special action with regard to the provincial meeting which the members might think proper. Mr. W. J. Winter-Taylor said that he felt that every support should be given to the new president, Mr. J. C. B. Gamlen, who had been good enough to agree to act as honorary secretary in connection with the provincial meeting, and expressed the hope that Mr. Gamlen might be able to let members know whether he had any, and if so what, proposals to make with regard to the provincial meeting. In reply, Mr. Gamlen stated that Mr. H. F. Galpin had kindly consented to act with him as joint honorary secretary, and that Mr. H. Torry Baines had also kindly consented to co-operate. Mr. Gamlen went on to say that he had had interviews with Messrs. H. R. Blaker and E. R. Cook, and that his own idea was that no entertainment would be necessary outside Oxford, as Oxford could show for nothing as much as, or more than, any other place in England. Mr. Gamlen then went on to sketch out the ideas which he had at present formed with regard to the meeting, including possibly a visit to Morris Motor Works and the Clarendon Press.

One or two members suggested the desirability of the formation of a guarantee fund and Mr. Gamlen stated that he proposed to ask members to form such a fund, and that he hoped to send out a circular notice at an early date.

Mr. Jordan next addressed a few remarks to the meeting in which he said that he could not allow the proceedings to terminate without expressing the deep gratitude which the members felt to the outgoing secretary, Mr. H. C. Dryland, for the many years of valuable service which he had given to the society. Other members expressed similar views, and the meeting terminated with a vote of thanks to the outgoing president, proposed by Mr. E. Cecil Durant and seconded by Mr. W. J. Winter-Taylor.

The London School of Economics.

Professor R. S. T. Chorley delivered a lecture on 7th February on "The Interpretation of Mercantile Statutes." He said that from the point of view of the commercial community it was particularly important to have one main rule of interpretation, and as little else as possible. A business man could not, before deciding whether he would purchase certain goods from a factor, or stop other goods in transit or have a bill protested, examine what mischief in the common law a century ago had called for the passing of the Factors Acts, or consider whether, since those statutes took away common law rights, he had better not purchase. Commercial statutes fell into three groups: those laying down new law; those codifying the old law; and those consolidating earlier statutes. The three groups overlapped to a certain extent. Rules of interpretation were said to differ according to whether the statute was consolidating or codifying. The first of the types was divisible into statutes intended to alter common law rules which had been found to hamper the conduct of business—e.g., the Factors Acts and the Bills of Lading Act; and statutes passed to meet a new situation for which no adequate common law rules existed—e.g., the Crossed Cheques Act and the Companies Acts.

The statutes in the first group furnished an interesting study of the way in which the choice of one or other of two canons of construction might set the law upon entirely divergent paths. One branch of the rule in *Heydon's Case* (1584), 3 Rep. 7b, said that the meaning of the statute might be arrived at by considering the mischief in the common law which it was designed to remove. If the legal profession were of the opinion that it was not a mischief, but one of the fairest blossoms of the common law which was being attacked, the rule became of little value. Another rule of interpretation which could be used very effectively in such cases was that when a statute interfered with common law rights it must use the plainest possible words. Five Factors Acts had been passed into law in sixty years because each one had been cut down by a series of decisions almost as soon as it had become law.

In the second group some of the statutes were really codes of law, as, for instance, the Companies Act, 1929, and the Bankruptcy Act, 1914. In these codes hundreds of sections and hundreds more of statutory administrative rules formed a vast and appalling desert, and if any rationality were to be brought into the interpretations the myriads of sections must be considered in the light of a few broad general principles. In formulating these principles the function of trading companies and bankruptcy in the economic organisation of society should play a fundamental part. The interpretation of these statutes had, however, been enormously influenced by a number of juristic and legal conceptions which had been applied without any adequate understanding of their public effects. The conception of the juristic personality of the corporation had led to *Salomon* v. *Salomon* [1897] A.C. 22, with its doctrine that a man could own a company and yet assume no responsibility for its debts. The administration of these Acts by the Chancery Division had led to the interpretation of much of both of them in the light of equitable doctrines.

International Codes.

Another group of statutes which laid down new law and had given rise to important new problems, was the group of international commercial statutes, the number of which had increased rapidly since the war. This group included the Hague Rules, establishing a uniform system in regard to bills of lading and enacted in the Carriage of Goods by Sea Act, 1924; and the Safety and Loadline Conventions and the Carriage by Air Convention, which had received the assent of the Legislature last year. Other equally important conventions were foreshadowed, for the League of Nations had committees at work on both the Bills of Exchange and the Sale of Goods Acts. It was therefore most important that the courts should not go wrong over their interpretation of the existing international statutes, for if they did so, the interpretation of all later similar Acts would be compromised. In the recent case of *Stag Line Limited* v. *Foscolo Mango* [1932] A.C. 328, the current had run very much in the wrong direction: the courts had for the most part treated the Act like any other municipal Statute and had apparently been oblivious of its international character. The question at issue was the extent to which English case law should be applied in interpreting the statute, and the case of *Bank of England* v. *Vagliano* [1891] A.C. 107, laid down definitely that words must be given their plain ordinary meaning without any predilection for the former law.

A general consideration which, while not amounting to a rule of interpretation, had exercised a considerable influence upon the interpretation of commercial statutes, had been the tendency to interpret them in what were considered the best interests of commerce and of fair dealing. This rule could only be applied freely when there was some ambiguity about the words used. For instance, a number of earlier decisions had enabled a person indorsing a bill with the intention of binding himself if certain events occurred to evade payment on the ground that his signature appeared in an irregular position. An important recent line of cases had, however, held that such an indorser would have to pay up, however unusual the position of his signature. The Statute of Frauds had from the beginning been held not to require written evidence of indemnities, and the process had continued. In *Couturier* v. *Hastie* (1842), 8 Ex 40, it had been held that a contract for the employment of a *del credere* agent need not be in writing. Every indorsement was, broadly speaking, a guarantee of payment under s. 4. If a company was desirous of purchasing goods and the seller would only sell if one of the directors guaranteed due payment, the guarantee was in this case clearly within the statute and the mere signature was obviously not a sufficient memorandum. Yet to accept this contention would drive the wedge of the Statute of Frauds into the heart of the sacred territory of negotiable instruments. The attempt had not really been made until very recently in *McCall* v. *Hargreaves* [1932] 2 K.B. 423, when it had been held that the indorsement of a bill was not a guarantee under the Statute of Frauds. The learned judge had apparently considered that the statute did not apply to bills at all. In *Re National Benefit Insurance* [1932] 2 Ch. 184, an insurance company had issued policies bearing a stamped clause stating that the National Benefit Company guaranteed the policy. There had not been a sufficient memorandum of the guarantee, and a technical application of the Statute of Frauds might have worked much harm, but in this case the requirements of estoppel had been fulfilled. Professor Chorley suggested that the doctrine of estoppel might be applied more widely so as to prevent the unscrupulous use of technical points arising out of statutory requirements.

Solicitors' Managing Clerks' Association.

Undue Influence.

Mr. Justice Maugham took the chair at a meeting of this Association at Lincoln's Inn Hall, on 10th February, and Mr. C. R. R. Romer delivered a lecture on "Undue Influence."

Mr. Romer discussed the power which courts of equity had exercised for many years to set aside, on the grounds of public policy, certain voluntary donations made *inter vivos*. Certain contracts, he said, were also invalidated on the same principle where a party was for some reason unable to exercise independent judgment. At common law a gift could only be recalled on the grounds of duress, fraud or incapacity of the

donor. Equity, however, invalidated voluntary gifts *inter vivos* in two sets of circumstances: (1) where the donee had behaved unfairly or improperly, or had exercised some form of coercion or cheating; and generally, though not always, when he had obtained some personal advantage through being in a close and confidential relation to the donor; and (2) where the donee had been under the duty of advising the donor or of managing his property for him.

The action of the court in the first class of case depended upon the facts. As no court had ever attempted to define fraud, so no court had attempted to define undue influence. The influence might be acquired by operating upon a donor's fears or superstitions, or by the ascendancy of a strong personality over a weak one. In *Lyon* v. *Home*, 6 Eq. 655, an old lady had been enticed by a spiritualistic medium, who had pretended to transmit messages from her deceased husband, to make over to him securities worth £24,000; the court had set the gifts aside as induced by fraud.

Whereas in the first class of cases the donor had to show reason why his gifts should be recalled, in the second class, where a relation of confidence was shown to exist or was presumed from the position of the parties, then equity presumed that the gift was the effect of influence induced by that relation, and the donee must show, not only that the donor had made the gift of his own free will, but that he had received independent advice, or had adopted the transaction after the influence had been removed. This was known as the principle in *Huguenin* v. *Baseley*, 14 Ves. 273. Indeed, certain judgments seemed to whittle down to the slimmest proportions even the defence of competent independent advice. Farwell, J., had said in *Powell* v. *Powell* [1900] 1 Ch. 243, that the advice must be acted upon, and Cozens Hardy, L.J., in *Wright* v. *Carter* [1903] 1 Ch. 26, had said, in effect, that the only competent independent advice which could be given to a client about to make a gift to his solicitor was the same that Mr. Punch gave to those about to marry—"Don't." To-day a wider view might prevail. The Judicial Committee of the Privy Council, in *Inche Noriah* v. *Shaik Allie Bin Omar* [1929] A.C. 127, had said that the court would set aside the gift unless the donee had established that it was the spontaneous act of the donor acting in circumstances which enabled him to exercise an independent will, and which justified the court in holding that it was the result of the free exercise of the donor's will. If the evidence established this fact, it should not be disregarded merely because the donor did not receive independent legal advice. On the other hand, the receipt of independent legal advice might rebut the presumption even although the advice were not acted upon, but to have that effect the advice must be given with a knowledge of all the relevant circumstances and be such as a competent and honest adviser would give if acting solely in the interests of the donor. Competence, said Mr. Romer, had nothing to do with the ability or understanding of the adviser, but merely meant that he should know the whole of the material facts from which he might form a competent view, and "independent" meant that the adviser must not be acting for the donee as well as the donor.

Acquiescence and Laches.

A donee might succeed in his defence if he could show that a donor, knowing his rights or the circumstances from which they arose, had been content to let matters rest for such a time as would permit the court reasonably to presume that the donor had intended always to leave matters as they were, and had applied to the court only after changing that intention. In *Allcard* v. *Skinner*, 36 Ch. D. 145, where the plaintiff had made over her property to a religious community which she had joined, and had brought her action five years after she had left the community, the court had allowed the gifts to stand on the ground of acquiescence and laches. Any acts done by the donor after the relationship had ceased which indicated acquiescence would materially shorten the period required, but acquiescence could only begin when the donor knew his rights and was free from the influence.

The courts would not protect a third party, however innocent, who profited by a gift tainted with undue influence. According to Wilmot, L.J., in *Bridgman* v. *Green* (1757), Will. 58: "Let the hand receiving it be ever so chaste, yet if it comes through a polluted channel, the obligation of restitution will follow it." The old friend of the equity student, the *bona fide* purchaser for value without notice, was protected, but a purchaser for value subsequently taking with notice of the equity created by the undue influence, or with notice of the circumstances from which the court inferred the equity, would be bound by it.

The list of the relationships from which equity presumed a special confidential position was not exhausted, but at present it included the relations of parent and child, or persons *in loco parentis*, guardian and ward, trustee and *cestui que trust*, legal adviser and client, religious advisor and advisee, medical attendant and patient, prospective husband and betrothed. The relation of husband and wife did not come within the principle, though when there was evidence that a husband had taken unfair advantage of his influence to obtain a large gift from his wife, it was not difficult for the wife to establish her title to relief or to throw the burden of upholding the gift on to the husband (*Willis* v. *Barron* [1902] A.C. 271).

The Chairman, in remarking that the doctrine in *Huguenin* v. *Baseley* did not apply to gifts by will, recalled a case in which a young man, through regularly taking tea with an old lady of property, induced her to make a will in his favour excluding all the members of her family. Speaking as a citizen, he said that he would welcome any alteration of the law to prevent the exercise of such influence, another example of which was that exerted by a nurse over an elderly male patient.

Solicitors' Benevolent Association.

The monthly meeting of the directors of this Association was held at The Law Society's Hall, Chancery Lane, on the 8th February, Mr. E. R. Cook, C.B.E., in the chair. The other directors present were: Sir A. N. Hill, Bart., Sir E. F. Knapp-Fisher, Sir R. W. Poole, and Messrs. F. E. F. Barham, E. E. Bird, P. D. Botterell, C.B.E., A. C. Borlase (Brighton), A. J. Cash (Derby), W. A. Coleman (Leamington), T. G. Cowan, N. T. Crombie (York), T. S. Curtis, E. F. Dent, A. G. Gibson, G. Keith, C. W. Lee, C. G. May, H. W. Michelmore (Exeter), H. F. Plant, F. L. Steward (Wolverhampton) and A. B. Urmston (Maidstone). £720 was distributed in grants of relief; thirty-two new members admitted, and other general business transacted.

The Hardwicke Society.

An ordinary meeting of the Society was held in the Middle Temple Common Room on Friday, 10th February. In the absence of the President, Mr. A. L. Ungoed-Thomas (Vice-President) took the chair at 8.21 p.m. In public business Mr. A. J. F. Wrottesley moved "That the powers of the British Broadcasting Corporation are excessive." Mr. Colin Pearson (ex-President) opposed. There spoke to the motion: Mr. Newman Hall (Hon. Treasurer), Mr. Campbell Lee (Hon. Librarian), Mr. Menzies, Mr. Ganz, Mr. Baden Fuller, Mr. Mayers, Mr. Stride (Hon. Secretary), Mr. Jardine Brown, Mr. Wolfe, Mr. Ungoed-Thomas (Vice-President), and the hon. proposer in reply. On a division the motion was lost by seven votes.

University of London Law Society.

At the weekly meeting of the University of London Law Society at Gower-street on Tuesday, 14th February, the subject for debate was the appeal case of *Trethowan* v. *Attorney-General for New South Wales* [1932] A.C. Mr. F. E. C. Wood argued that it was wrongly considered and Miss Watson opposed and supported the finding of the Privy Council. The voting was equal, but the casting vote of the President, Mr. Hales, decided in favour of Miss Watson.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 7th February, (Chairman, Mr. R. Langley Mitchell), the subject for debate was: "That the case of *Rer* v. *Manley*, 49 T.L.R., p. 130, was wrongly decided." Mr. H. B. M. Falck opened in the affirmative and Mrs. H. S. Evans opened in the negative: Mr. H. J. Baxter seconded in the affirmative and Mr. W. M. Pleadwell seconded in the negative. The following members also spoke: Messrs. P. W. Iliffe, Miss H. M. Cross, and R. S. Hood (Visitor). The opener having replied, and the Chairman having summed up, the motion was lost by four votes.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 14th February (Chairman, Mr. P. H. North-Lewis), the subject for debate was: "That this House deplores the result of the Irish Election."

Mr. P. W. Iliff opened in the affirmative. Mr. E. L. Hayes opened in the negative.

The following members also spoke: Messrs. W. Fancourt Bell, H. J. Baxter, T. M. Jessup, R. Langley Mitchell, L. J. Frost, W. M. Pleadwell, R. J. A. Temple, Miss Hastie and R. M. M. King (visitor). The opener having replied, the motion was lost by one vote. There were seventeen members and five visitors present.

Rules and Orders.

WRIT FOR ISSUE FROM DISTRICT REGISTRY.

A.3.

IN THE HIGH COURT OF JUSTICE.
Division. 19 , , No.
District Registry.
Between

Plaintiff,

and

Defendant.

GEORGE THE FIFTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith. To

of
in the of
We command you, that within eight days after the service of this writ on you inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of

And take notice that in default of your so doing, the plaintiff may proceed therein and judgment may be given in your absence.

Witness,
Lord High Chancellor of Great Britain, the
day of in the year of Our Lord One thousand nine hundred and

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

A defendant who resides or carries on business within the above-named district must enter appearance at the Office of the Registrar of that District.*

A defendant who neither resides, nor carries on business within the said district, may enter appearance either at the Office of the said Registrar or at the Central Office, Royal Courts of Justice, London.

A defendant appearing personally may, if he desire, enter his appearance by post and the appropriate forms may be obtained by sending a Postal Order for 2s. 10d., with an addressed envelope, foolscap size, to (1) the District Registrar, at his Office mentioned above, or (2) The Controller of Stamps, Royal Courts of Justice, London, W.C.2, if the appearance is to be entered in London.

The Plaintiff's claim is—

This Writ was issued by
whose address for service† is
agent for
of
solicitor for the said plaintiff who reside at
The address for service in London is‡

Indorsement to be made within 3 days after service.

This Writ was served by me at
on the defendant
on the day of 19 .
Indorsed the day of 19 .
(Signed) .....
(Address).....

* Insert Address of Office.
† This address must be within the district.
‡ This address must be within 3 miles from the site of Temple Bar.

SPECIALLY ENDORSED WRIT FOR ISSUE FROM DISTRICT REGISTRY.

A. 4.

IN THE HIGH COURT OF JUSTICE.
Division. 19 , , No.
District Registry.
Between

Plaintiff,

and

Defendant.

GEORGE THE FIFTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith. To
of
in the of
We command you, that within eight days after the service of this writ on you inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of

And take notice that in default of your so doing, the plaintiff may proceed therein and judgment may be given in your absence,

Witness, , Lord High Chancellor of Great Britain, the day of in the year of Our Lord One thousand nine hundred and .

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

A defendant who resides or carries on business within the above-named district must enter appearance at the Office of the Registrar of that District.*

A defendant who neither resides nor carries on business within the said district, may enter appearance either at the Office of the said Registrar or at the Central Office, Royal Courts of Justice, London.

A defendant appearing personally may, if he desires, enter his appearance by post and the appropriate forms may be obtained by sending a Postal Order for 2s. 10d., with an addressed envelope, foolscap size, to (1) the District Registrar, at his Office mentioned above, or (2) The Controller of Stamps, Royal Courts of Justice, London, W.C.2, if the appearance is to be entered in London.

If the defendant enters an appearance he must also deliver a defence within ten days after the last day of the time limited for his appearance, otherwise judgment may be entered against him without notice unless he has in the meantime been served with a summons for judgment or for directions.

STATEMENT OF CLAIM :—

The Plaintiff's claim is

Particulars—

Place of Trial
(Signed)

And the sum of £ (*or such sum as may be allowed on taxation*), for costs; and also, in case the plaintiff obtains an order for substituted service, the further sum of £ „ „ . If the amount claimed is paid to the plaintiff or h solicitor or agent within four days from the service hereof, further proceedings will be stayed.

This Writ was issued by
of
whose address for service† is
agent for
solicitor for the said plaintiff who reside at
The address for service in London is‡

This Writ was served by me at
on the defendant
on the day of 19
Indorsed the day of 19
(Signed).....
(Address).....

* Insert address of Office.
† This address must be within the district.
‡ This address must be within 3 miles from the site of Temple Bar.

FORM FOR USE IN DISTRICT REGISTRIES.

E. 21c.

DIRECTIONS FOR ENTRY OF APPEARANCE IN PERSON BY POST.

The four forms of Appearance fully filled up must be sent by prepaid registered letter addressed to :—

The District Registrar,
High Court of Justice,
.....
(*fill in name of District Registry*)

or, if the Defendant does not reside or carry on business within the district, either to the said District Registrar or to :—

The Head Clerk,
Action Department,
Royal Courts of Justice,
London, W.C.2.

together with two foolscap envelopes, each sufficiently stamped, one addressed to the Plaintiff's Solicitor (or to the Plaintiff if he sues in person), at the address for service, and the other addressed to the Defendant entering the appearance.

If more than one person is entering an appearance on this form an additional fee of 2s. 6d. is payable in respect of each extra person.

The Defendant must give his full Christian Names and Surname, and, in the case of a female Defendant, in addition, her description, such as spinster, married woman or widow.

Where the Defendant is a firm the Appearance must be entered by the individual partners by name with the description "partner [or partners] in the firm of....., ..." or "trading as....."

Where the Defendant is a limited liability company the Appearance must be entered by a solicitor,

Particular attention is directed to the necessity for giving an address for service where documents may be left for or addressed to the Defendant.

If the Defendant resides or carries on business within the district of the District Registry he must enter appearance at the District Registry, and this address must be within the district. If the Defendant neither resides nor carries on business in the district he may enter his appearance either in the District Registry (in which case the address must be within the district) or in London (in which case the address must be within three miles of the principal entrance of the Central Hall of the Royal Courts of Justice).

Without the above particulars the Appearance cannot be accepted.

The notes printed at the foot of the Copy Writ served should be carefully read.

If the Defendant has no defence and admits the Plaintiff's claim, the entry of Appearance will delay judgment and may increase the costs against the Defendant.

Any proposal for the payment of a debt by instalments or otherwise must be made direct to the Plaintiff or his Solicitor and not to the Court.

Correspondence with parties to proceedings cannot be entered into.

Form for Use in District Registries.

This form to be sealed and filed in the District Registry or in the Central Office, as the case may be.

E. 21c. (O.12.R.8A.)

MEMORANDUM OF APPEARANCE IN PERSON BY POST.

19 , , No.

IN THE HIGH COURT OF JUSTICE.
Division.
District Registry.

Between *Plaintiff,*

and

Defendant.

Enter an Appearance for*
in this Action.

Dated the day of 19 .
(Signed)
of

whose address for service is†
the said Defendant in person.

* Full names of Defendant or Defendants appearing must be given.

† The address for service must :—
(i) if appearance is entered in the District Registry, be within the district, or
(ii) if appearance is entered in London, be within 3 miles of the Royal Courts of Justice.

FORM FOR USE IN DISTRICT REGISTRIES.

This form to be sealed and filed in the District Registry or in the Central Office, as the case may be.

(O.12.R.8A.)

COPY NOTICE OF APPEARANCE in person by post.

IN THE HIGH COURT OF JUSTICE.
Division. 19 , , No.
District Registry.

Between *Plaintiff,*

and

Defendant.

To the Plaintiff or (*) h Solicitor.

TAKE NOTICE that Appearance has been entered by post in this action for the Defendant(†)

Dated the day of 19 .
(Signed)
of

whose address for service is(‡)
the said Defendant in person.

* " his," " her " or " their."

† Full names of Defendant or Defendants appearing must be given.

‡ The address for service must :—
(i) if appearance is entered in the District Registry, be within the district, or
(ii) if appearance is entered in London, be within 3 miles of the Royal Courts of Justice.

DIRECTIONS FOR ENTRY OF APPEARANCE IN PERSON BY POST.

The four forms of Appearance fully filled up must be sent by prepaid registered letter addressed to :—

The District Registrar,
High Court of Justice,
.....
(fill in name of District Registry)

or, if the Defendant does not reside or carry on business within the district, either to the said District Registrar or to :—

The Head Clerk,
Action Department,
Royal Courts of Justice,
London, W.C.2,

together with two foolscap envelopes, each sufficiently stamped, one addressed to the Plaintiff's Solicitor (or to the Plaintiff, if he sues in person), at the address for service, and the other addressed to the Defendant entering the appearance.

If more than one person is entering an appearance on this form an additional fee of 2s. 6d. is payable in respect of each extra person.

The Defendant must give his full Christian Names and Surname, and, in the case of a female Defendant, in addition, her description, such as spinster, married woman or widow.

Where the Defendant is a firm the Appearance must be entered by the individual partners by name with the description " partner [or partners] in the firm of.....," or " trading as....."

Where the Defendant is a limited liability company the Appearance must be entered by a solicitor.

Particular attention is directed to the necessity for giving an address for service where documents may be left for or addressed to the Defendant.

If the Defendant resides or carries on business within the district of the District Registry he must enter appearance at the District Registry, and this address must be within the district. If the Defendant neither resides nor carries on business in the district he may enter his appearance either in the District Registry (in which case the address must be within the district) or in London (in which case the address must be within three miles of the principal entrance of the Central Hall of the Royal Courts of Justice).

Without the above particulars the Appearance cannot be accepted.

The notes printed at the foot of the Copy Writ served should be carefully read.

If the Defendant has no defence and admits the Plaintiff's claim, the entry of Appearance will delay judgment and may increase the costs against the Defendant.

Any proposal for the payment of a debt by instalments or otherwise must be made direct to the Plaintiff or his Solicitor and not to the Court.

Correspondence with parties to proceedings cannot be entered into.

FORM FOR USE IN DISTRICT REGISTRIES.

This form to be sealed and returned to the Defendant.

E.21D. Duplicate Appearance in Person by Post. (O.12.R.8A.)

[INSTRUCTION.—*The forms of Appearance must be filled up and forwarded by registered post to the District Registry or to the Head Clerk, Action Department, Royal Courts of Justice, London, as the case may be, together with an envelope addressed to the Plaintiff's solicitor for transmission by post, and also an envelope addressed to the Defendant. See instructions at back hereof.*]

IN THE HIGH COURT OF JUSTICE. 19 , , No.
Division.
District Registry.

Between *Plaintiff,*

and

Defendant.

Enter an Appearance for*
in this Action.

Dated the day of 19 .
(Signed)
of

whose address for service is†
the said Defendant in person.

* Full names of the Defendant or Defendants appearing must be given.

† The address for service must :—
(i) if appearance is entered in the District Registry, be within the district, or
(ii) if appearance is entered in London, be within 3 miles of the Royal Courts of Justice.

FORM FOR USE IN DISTRICT REGISTRIES.

This form to be sealed and posted to the Plaintiff's Solicitor.

NOTICE OF APPEARANCE IN PERSON BY POST. (O.12.R.8A.)

IN THE HIGH COURT OF JUSTICE.
Division. 19 , , No.
District Registry.

Between *Plaintiff*

and

Defendant.

To the Plaintiff or (*)h Solicitor.

TAKE NOTICE that Appearance has been entered by post in this action for the Defendant(†)

Dated the day of 19 .
(Signed)
of

whose address for service is(‡)
the said Defendant in person.

* " his," " her " or " their."

† Full names of Defendant or Defendants appearing must be given.

‡ The address for service must :—
(i) if appearance is entered in the District Registry, be within the district, or
(ii) if appearance is entered in London, be within 3 miles of the Royal Courts of Justice.

Legal Notes and News.

Honours and Appointments.

The Irish Free State Executive Council has appointed Mr. JOSEPH K. O'CONNOR, K.C., to be a circuit Judge in the place of Judge Kenny, of the Cork circuit, who has retired.

Mr. JOHN L. WARK, K.C., formerly Sheriff of Argyll, has been installed as a Senator of the College of Justice in Scotland. The new Judge has taken his seat with the title of Lord Wark.

Burnham Urban District Council have appointed Mr. DOUGLAS WATSON to succeed the late Mr. A. Chambers Harris as Solicitor of the Council.

Mr. J. E. BROWN-HUME, solicitor, of Bishop Auckland, has been recommended for appointment as Coroner of the Darlington Ward. Mr. Brown-Hume was admitted a solicitor in 1909.

Mr. GEOFFREY P. LLOYD, solicitor, of Leominster, has been appointed a Magistrate of the Leominster Borough Bench. Mr. Lloyd was admitted a solicitor in 1913.

Professional Announcements.

(2s. per line.)

L. C. THOMAS, SON & MORRIS, of 42, Queen-street, Neath (Glam.), announce that they have taken into partnership ALFRED EDWARD HOPE BLAZEY, who has been associated with them since 1922. The name of the firm remains unchanged.

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

UNEMPLOYMENT INSURANCE.

The Minister of Health and the Minister of Labour received a deputation from the Association of Municipal Corporations on Thursday, 9th February.

The deputation was introduced by Alderman Martin, of Leeds, and the other speakers were: Councillor Loxley, of Newcastle; Mr. Oliver, Town Clerk of Newcastle; and Mr. Lamb, Director of Public Assistance, Bristol.

The purpose of the deputation was to bring to the notice of the Government the views of the Association of Municipal Corporations upon the report of the Royal Commission on Unemployment Insurance, to suggest certain alternative proposals, and to offer to the Government any help in their power in the framing of a scheme.

The Minister of Health and the Minister of Labour said that the whole matter was under the close and urgent attention of the Government. They were glad to be fully informed of the views of the association, to which careful consideration would be given.

CHANCERY JUDGES TO HELP THE KING'S BENCH.

It was announced in *The Times* last Tuesday that on and after Tuesday, 21st February, some non-jury actions will probably be heard by judges of the Chancery Division sitting as additional judges of the King's Bench Division.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE.	GROUP I. MR. JUSTICE MAUGHAM.
			Witness. Part II.	Witness. Part I.
M'nd'y Feb. 20	Mr. Andrews	Mr. Blaker	Mr.*Andrews	Mr.*More
Tuesday .. 21	Jones	More	More	*Ritchie
Wednesday 22	Ritchie	Hicks Beach	*Ritchie	*Andrews
Thursday . 23	Blaker	Andrews	Andrews	*More
Friday 24	More	Jones	*More	Ritchie
Saturday .. 25	Hicks Beach	Ritchie	Ritchie	Andrews
	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
M'nd'y Feb. 20	Mr. Ritchie	Mr.*Jones	Mr. Hicks Beach	Mr. Blaker
Tuesday .. 21	Andrews	*Hicks Beach	Blaker	*Jones
Wednesday 22	More	*Blaker	Jones	Hicks Beach
Thursday . 23	Ritchie	Jones	Hicks Beach	*Blaker
Friday 24	Andrews	*Hicks Beach	Blaker	Jones
Saturday .. 25	More	Blaker	Jones	Hicks Beach

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 23rd February, 1933.

	Div. Months.	Middle Price 15 Feb. 1933.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
English Government Securities				
Consols 4% 1957 or after	FA	107½	3 14 5	3 10 7
Consols 2½%	JAJO	74	3 7 7	—
War Loan 3½% 1952 or after ..	JD	99¼	3 10 6	—
Funding 4% Loan 1960-90	MN	110	3 12 9	3 8 7
Victory 4% Loan (Available for Estate Duty at par) Av. life 29 years	MS	109½	3 13 1	3 9 6
Conversion 5% Loan 1944-64 ..	MN	117	4 5 6	3 3 0
Conversion 4½% Loan 1940-44 ..	JJ	111	4 1 1	2 16 10
Conversion 3½% Loan 1961 or after ..	AO	100	3 10 0	—
Local Loans 3% Stock 1912 or after..	JAJO	87	3 9 0	—
Bank Stock	AO	325½	3 13 9	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	78	3 10 6	—
India 4½% 1950-55	MN	109	4 2 7	3 15 5
India 3½% 1931 or after	JAJO	89	3 18 8	—
India 3% 1948 or after	JAJO	76½	3 18 5	—
Sudan 4½% 1939-73	FA	110	4 1 10	2 13 6
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 8 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	100	3 0 0	3 0 0
Colonial Securities				
*Australia (Commonw'th) 5% 1945-75	JJ	106	4 14 4	4 7 0
*Canada 3½% 1930-50	JJ	100	3 10 0	3 10 0
Cape of Good Hope 3½% 1929-49 ..	JJ	100	3 10 0	3 10 0
Natal 3% 1929-49	JJ	93	3 4 6	3 11 8
New South Wales 3½% 1930-50 ..	JJ	94	3 14 6	3 19 10
*New South Wales 5% 1945-65 ..	JD	105	4 15 3	4 9 8
New Zealand 4½% 1948-58	MS	107xd	4 4 1	3 17 6
*New Zealand 5% 1946	JJ	109	4 11 9	4 1 10
Nigeria 5% 1950-60	FA	112	4 9 3	4 0 2
*Queensland 4% 1940-50	AO	101	3 19 2	3 16 11
*South Africa 5% 1945-75	JJ	110	4 10 11	3 18 9
*South Australia 5% 1945-75 ..	JJ	105	4 15 3	4 9 1
Tasmania 3½% 1920-40	JJ	99	3 10 8	3 13 4
Victoria 3½% 1929-49	AO	95	3 13 8	3 18 1
*W. Australia 4% 1942-62	JJ	100	4 0 0	4 0 0
Corporation Stocks				
Birmingham 3% 1947 or after ..	JJ	85	3 10 7	—
Birmingham 4½% 1948-68	AO	112	4 0 4	3 10 2
*Cardiff 5% 1945-65	MS	110xd	4 10 11	4 0 0
Croydon 3% 1940-60	AO	93	3 4 6	3 8 0
*Hastings 5% 1947-67	AO	113½	4 8 1	3 14 9
Hull 3½% 1925-55	FA	98	3 11 5	3 12 8
Liverpool 3½% Redeemable by agreement with holders or by purchase ..	JAJO	98	3 11 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	73xd	3 8 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86xd	3 9 9	—
Manchester 3% 1941 or after ..	FA	85	3 10 7	—
Metropolitan Consd. 2½% 1920-49 ..	MJSD	90½xd	2 15 3	3 4 9
Metropolitan Water Board 3% "A" 1963-2003	AO	88	3 8 2	3 9 1
Do. do. 3% "B" 1934-2003 ..	MS	89xd	3 7 5	3 8 3
*Middlesex C.C. 3½% 1927-47 ..	FA	100	3 10 0	3 10 0
Do. do. 4½% 1950-70	MN	112	4 0 4	3 11 7
Nottingham 3% Irredeemable ..	MN	85	3 10 7	—
*Stockton 5% 1946-66	JJ	109½	4 11 4	4 1 10
English Railway Prior Charges				
Gt. Western Rly. 4% Debenture ..	JJ	101½	3 18 10	—
Gt. Western Rly. 5% Rent Charge ..	FA	113½	4 8 1	—
Gt. Western Rly. 5% Preference ..	MA	79½	6 5 9	—
‡L. & N.E. Rly. 4% Debenture ..	JJ	84½	4 14 8	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	64½xd	6 4 0	—
London Electric 4% Debenture ..	JJ	102½	3 18 1	—
‡L. Mid. & Scot. Rly. 4% Debenture..	JJ	92¼	4 6 6	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	76½	5 4 7	—
Southern Rly. 4% Debenture ..	JJ	99½	4 0 5	—
Southern Rly. 5% Guaranteed ..	MA	106½	4 13 11	—
Southern Rly. 5% Preference ..	MA	80½	6 4 3	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

‡These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

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